

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF MASSACHUSETTS

3  
4 UNITED STATES OF AMERICA, et al.

5 Plaintiffs,

Civil Action No.  
1:21-cv-11558-LTS

6 v.

7 AMERICAN AIRLINES GROUP, INC.,  
8 et al.,

9 Defendants.  
10

11  
12 BEFORE THE HONORABLE LEO T. SOROKIN, DISTRICT JUDGE

13 BENCH TRIAL  
14 Day 4

15  
16 Friday, September 30, 2022  
17 9:00 a.m.

18  
19  
20 John J. Moakley United States Courthouse  
21 Courtroom 13  
22 One Courthouse Way  
Boston, Massachusetts

23 Rachel M. Lopez, CRR  
24 Official Court Reporter  
25 raeufp@gmail.com

**A P P E A R A N C E S**

On behalf of the Plaintiff United States of America:

UNITED STATES DEPARTMENT OF JUSTICE  
BY: WILLIAM H. JONES, III; JOHN STAIGE DAVIS; BONNY E.  
SWEENEY; AND JAMES H. CONGDON  
450 Fifth Street, Northwest  
Suite 8000  
Washington, D.C. 20530  
(202) 514-0230  
bill.jones2@usdoj.gov  
john.davis10@usdoj.gov  
bonny.sweeney@usdoj.gov  
james.congdon@usdoj.gov

On behalf of the Defendant American Airlines Group, Inc.:

LATHAM & WATKINS, LLP  
BY: DANIEL M. WALL AND SEUGN WAN PAIK  
505 Montgomery Street  
Suite 2000  
San Francisco, California 04111  
(415) 391-0600  
dan.wall@lw.com  
seung.paik@lw.com

On behalf of the Defendant JetBlue Airways Corporation:

SHEARMAN & STERLING LLP  
BY: RICHARD F. SCHWED  
599 Lexington Avenue  
New York, New York 10022  
(212) 848-4000  
richard.schwed@shearman.com

**TABLE OF CONTENTS****TRIAL WITNESSES**

On behalf of the Plaintiffs:	<u>Page</u>
JOHN KIRBY	
By Mr. Wall	5
By Mr. Davis	47
By Mr. Wall	63
VASU RAJA	
By Ms. Sweeney	68
By Mr. Wall	177

**EXHIBITS**

On behalf of the Plaintiffs:	<u>Admitted</u>
Number 64	123
Number 247	147
On behalf of the Defendants:	<u>Admitted</u>
Number DX89-A, B, and C	168

**P R O C E E D I N G S**

(In open court at 9:00 a.m.)

THE DEPUTY CLERK: The United States District Court for the District of Massachusetts is now in session, the Honorable Leo T. Sorokin presiding.

THE COURT: Please be seated.

So just for the benefit of the court reporter, one little adjustment, when a new lawyer starts to examine a witness, like as a lawyer who hasn't examined before, not one of the three of you, just because I think she knows the three of you -- the court reporters know the three of you more easily, just pause for a minute, until the court reporter says they're ready, that will just enable a better record for all of you. So okay.

Yes?

MR. JONES: Your Honor, just one brief administrative note for the Court, the plaintiffs' side has had a problem with this trial director that we're trying to resolve, but not sure if we're going to quite get it resolved. So defendants have agreed to call up our documents, and thanks to them for that.

THE COURT: Good.

MR. JONES: But our presentation, because, you know, using their trial director instead of --

THE COURT: May be a little bit more less smooth.

1 MR. JONES: Yes.

2 THE COURT: That's totally fine and I understand,  
3 and kudos to all of you for agreeing to do that, that's the  
4 right thing to do.

5 MR. WALL: We actually did not agree to put up the  
6 right documents. We obtained a curation right.

7 MR. JONES: Thank you, Your Honor.

8 THE COURT: Okay. You have something else, or are  
9 you just ready to go?

10 MR. WALL: No.

11 THE COURT: Where is Mr. Kirby?

12 MR. DAVIS: I'll call him.

13 THE COURT: Go ahead, Mr. Wall.

14 MR. WALL: Thank you, Your Honor.

15 Good morning, Mr. Kirby.

16 THE WITNESS: Good morning.

17 **JOHN KIRBY**

18 having been previously duly sworn, testified as follows:

19 **CROSS-EXAMINATION BY COUNSEL FOR**

20 **DEFENDANT AMERICAN AIRLINES, Cont.**

21 BY MR. WALL:

22 **Q.** Yesterday I asked you to explain a statement that you had  
23 made to a colleague on the day that the NEA was announced  
24 about potential S-curve effects. Do you recall that?

25 **A.** Yes.

1     **Q.** And in particular, I asked you to address what it was  
2     that you had indicated that a greater S-curve effect was  
3     likely at the New York airports than at the Logan airports.  
4     And in that context, you testified that your recollection was  
5     that American had been making public statements about  
6     stepping up their competition at Logan just prior to the  
7     announcement of the NEA, right?

8     **A.** Yes.

9     **Q.** Okay. And in fact, what you said was that just before  
10    the NEA, American -- I think I'll miss the quote exactly, but  
11    the head of revenues, the chief -- the transcript says  
12    coordinating officer. It should say commercial officer --  
13    Vasu Raja, said, you know, take out the bats, we're going to  
14    war-type thing. Do you remember that testimony?

15    **A.** Yes.

16    **Q.** Okay. And you said that that statement indicated that  
17    American was going to become more aggressive in Logan and  
18    that you had -- and that you had seen that just prior to the  
19    NEA, right?

20    **A.** Yes.

21    **Q.** Okay. Now, a challenge to you about that, suggesting you  
22    read those statements in the government's complaint. Do you  
23    remember that?

24    **A.** Yes.

25    **Q.** And you said, "No, no. This is what I observed in doing

1 my job," and then you went on to say that you received an  
2 e-mail from someone who forwarded to you a statement that  
3 Vasu Raja had made at a conference. Do you recall that?

4 **A.** Yes.

5 **Q.** Now, overnight, were you able to remember more about that  
6 and maybe find the e-mail?

7 **A.** No.

8 **Q.** Okay. Let me show you, sir, what is in evidence as  
9 Plaintiffs' Exhibit 64, which is an internal e-mail from  
10 Vasu Raja to Jim Carter.

11 **A.** Uh-huh.

12 **Q.** In which Mr. Raja writes to Mr. Carter alone, "Awesome.  
13 Gird your loins. Time to swing the bat in Boston."

14 Do you see that?

15 **A.** Yes.

16 **Q.** Now, you've never seen that internal e-mail, have you?

17 **A.** No.

18 **Q.** Okay. Let me show you the complaint in this case, at  
19 paragraph 55. That should be popping up right now?

20 MR. DAVIS: For the record, the Exhibit number,  
21 please.

22 MR. WALL: It's the complaint. I don't think we  
23 have the exhibit number on the complaint.

24 THE COURT: It's docket number one.

25 BY MR. WALL:

1     **Q.** Paragraph 55 of the complaint states, picking up at the  
2 middle of the paragraph, "In September of 2019, American  
3 Senior Vice President for network strategy rallied his team,  
4 'We are not done in Boston and we are going to fight like  
5 hell in Boston if I have anything to do with it.' In January  
6 of 2020, the same executive commanded, 'gird your loins.  
7 Time to swing the bat in Boston.'"

8             Do you see that?

9     **A.** Yes.

10    **Q.** Now, you had read the complaint before prior to your  
11 testimony yesterday, right?

12    **A.** Yes.

13    **Q.** So when I asked you questions about the S-curve in  
14 Boston, you weaved into your answer one of the documents that  
15 DOJ has cited in support of their case about American growth  
16 in Boston, correct?

17    **A.** Yes.

18    **Q.** And then you attributed that language to an e-mail from a  
19 third party that you don't have, right?

20    **A.** Yes.

21    **Q.** Okay. Now, Mr. Kirby, you also had a discussion  
22 yesterday with Mr. Davis about destinations that Spirit  
23 serves from both Newark and LaGuardia airports, right?

24    **A.** Yes.

25    **Q.** And you testified that Spirit serves Fort Lauderdale,



1 Orlando, and Mytle Beach, from both LaGuardia and Newark,  
2 right?

3 **A.** Yes.

4 MR. DAVIS: Objection, misstates the testimony. I  
5 thought he said Fort Lauderdale and Mytle Beach, not Orlando.

6 THE WITNESS: No, I also said Orlando, John.

7 MR. DAVIS: Withdrawn.

8 THE COURT: Overruled.

9 BY MR. WALL:

10 **Q.** You also mentioned Houston, in fact, right?

11 **A.** Houston, which is recent, but yes.

12 **Q.** When did Spirit enter Houston?

13 **A.** Well, we announced it, but we haven't started service  
14 yet.

15 **Q.** Okay. All right. Okay. So in terms of industry data  
16 that might be available about your pricing, it would exist  
17 for Fort Lauderdale, Orlando, and Myrtle Beach, but not  
18 Houston?

19 **A.** Yes.

20 **Q.** So when Mr. Davis asked you whether the routes to those  
21 destinations from Newark and LaGuardia had the same pricing,  
22 you responded no and that prices can vary greatly, correct?

23 **A.** Yes.

24 MR. WALL: Okay. Your Honor, I want to hand up,  
25 and I've already given to opposing counsel, a copy of a

1 compilation that we prepared last night, based upon industry  
2 DB1B data, that is admitted into evidence as Defendants'  
3 Exhibits 745 and 1070. So this particular compilation, based  
4 upon the DB1B data shows Spirit's average round trip fares  
5 from LaGuardia and Newark airports to Fort Lauderdale,  
6 Orlando, and Myrtle Beach. Okay?

7 MR. DAVIS: Your Honor, the government objects.  
8 This is a demonstrative and will be used substantively. We  
9 were just handed it minutes ago. It was due under the  
10 pretrial scheduling yesterday at 9 o'clock, and we object to  
11 its use so late.

12 MR. WALL: It's a little hard to understand.

13 THE COURT: Hold on. You object to its use, what?  
14 I didn't catch the last one.

15 MR. DAVIS: The objection is it's in violation of  
16 the Court's order about exchanging demonstrative exhibits  
17 before the testimony.

18 THE COURT: Because the -- under the order which I  
19 confess I don't have -- one of the things that I don't have  
20 in front of me at the moment, says that you should --  
21 before -- on the day of -- a witness is called, you should  
22 exchange, by 9:00 a.m., the demonstratives for the direct and  
23 cross?

24 MR. WALL: It's actually in advance of it, but it's  
25 impossible to do in this circumstance, because we didn't hear

1 this claim or this testimony until yesterday afternoon.

2 THE COURT: All right. Since this seems to be  
3 responsive to something that wasn't in the -- was this in his  
4 deposition?

5 MS. RIGGS: Your Honor, we wouldn't have objected  
6 if they had told us last evening that they were preparing  
7 this, but we literally got it one minute before you took the  
8 bench.

9 THE COURT: I think what I'm going to do is I'm  
10 going to let them use it, but if you want to respond to it  
11 later, even after you -- I'm not going to hold the witness,  
12 but if you want to respond to it, you can. If we need to, we  
13 could get the witness on video for ten minutes if there was  
14 something else to respond to, and I'd be prepared to have  
15 that happen and no problem.

16 Go ahead.

17 MR. WALL: Thank you, Your Honor.

18 THE COURT: And I think generally, if you're going  
19 to prepare it, you should give it to them the night before.

20 MR. WALL: Well, Your Honor, I guarantee you, we  
21 would have had this not come up for the first time yesterday  
22 afternoon.

23 THE COURT: No, no, but you prepared it last night,  
24 probably.

25 MR. WALL: It's actually -- I think the copy that

1     you're looking at arrived here in the middle of the night  
2     last night and we gave it to them first thing this morning.

3             THE COURT: Right. But there is e-mail.

4             All right. Go ahead.

5     BY MR. WALL:

6     **Q.** All right. Mr. Kirby, I'm showing you first a graph.

7             First of all, could you explain to the Court what  
8     DB1B data is?

9     **A.** Yeah. I actually referenced it yesterday at a high  
10    level. That is the data that is provided by carriers to the  
11    DOT and then is compiled and put into that database.

12    **Q.** All right. And it's regularly used in the industry to  
13    make fare comparisons on routes between carriers and so  
14    forth?

15    **A.** Yeah, it's used for a number of reasons, but that's some  
16    of them.

17    **Q.** All right. So this first graph, Mr. Kirby, is entitled  
18    "Spirit round-trip nonstop fares between LaGuardia/Newark and  
19    Fort Lauderdale." And this is one of the routes when you  
20    said that Spirit's prices are not the same and they can vary  
21    greatly, correct?

22    **A.** I said they can vary, yes.

23    **Q.** Do you have any reason, based upon your understanding of  
24    Spirit's pricing, to think that the pattern of movements of  
25    Spirit's prices between LaGuardia and Newark on the one hand

1 and Fort Lauderdale on the other hand are substantially  
2 different than what's depicted here in this chart?

3 **A.** No. But I would say, though, if you recall yesterday,  
4 one of the things I did mention was because they are similar  
5 stage lengths, that the pricing wouldn't be too out -- too  
6 different. So -- and you can see, even if we look at second  
7 quarter '18, there actually is a pretty significant  
8 difference in certain periods, and other periods, it's close.  
9 So again, it indicates that because of the state, what the  
10 cost of operating that length is similar, that the pricing  
11 would be similar, but again, not exact.

12 **Q.** Okay. Let's move on to the next one, then, which is  
13 Spirit's round trip nonstop fares between LaGuardia and  
14 Newark on the one hand and MCO -- that's Orlando, right?

15 **A.** Correct.

16 **Q.** And you see these lines are pretty tightly aligned.  
17 Would you agree?

18 **A.** Yes.

19 **Q.** Okay. So do you have any reason to believe that that  
20 inaccurately portrays a comparison between Spirit's pricing  
21 between Orlando and the two New York airport fares?

22 **A.** No, but --

23 MR. DAVIS: Objection to the question. Reason to  
24 believe, that doesn't establish foundation, Your Honor. As I  
25 understand it, this chart is based on defense exhibits that

1 are not in evidence.

2 MR. WALL: That's not true. It's based upon  
3 defense exhibits that are in evidence.

4 MR. DAVIS: All right. My understanding is they  
5 are not evidence. I may be wrong. This is 745 and 1070?

6 MR. WALL: DB1B data was stipulated to be in  
7 evidence.

8 MR. DAVIS: Is there a relationship with DX 745 and  
9 DX 1070.

10 MR. WALL: Those are DB1B data.

11 MR. DAVIS: All right. Well, the objection is to  
12 personal knowledge of these -- it's based on documents he's  
13 not seen right now.

14 MR. WALL: I didn't. I asked him if he had any  
15 knowledge that was contrary to what's being portrayed.

16 THE COURT: He has familiarity -- I mean, on his  
17 testimony, it seems to me he understands he's not -- I don't  
18 think he's -- I think he's responsible for network  
19 operations, right?

20 THE WITNESS: Network planning.

21 THE COURT: Which is the product, which is the  
22 schedule.

23 THE WITNESS: Correct.

24 THE COURT: And that touches, in my understanding,  
25 I'll just tell you, and if I'm wrong, you can all fix it with

1 the witness, but my understanding is he's not specifically  
2 responsible for pricing, but he's familiar with pricing, and  
3 that that obviously effects schedule in some way. There's  
4 interaction and intercommunication, so I think he would have  
5 some understanding of this, even if he hasn't read all of  
6 that, and he's talked about being up on the industry  
7 generally. So I don't remember the -- what's the exact --  
8 what's the question, again, just in terms of the wording?

9 MR. WALL: I'll rephrase it.

10 BY MR. WALL:

11 **Q.** Do you have any reason to believe that Spirit's pricing,  
12 to which you testified yesterday, between LaGuardia and  
13 Newark on the one hand and Orlando on the other hand is any  
14 different or more varied than what is depicted on this chart?

15 **A.** I'll just --

16 THE COURT: So, wait, just.

17 MR. DAVIS: So the objection is just improper  
18 authentication. This witness is being used to authenticate a  
19 document being admitted substantively, but he's never seen --

20 THE COURT: Well, he hasn't offered this -- he  
21 hasn't offered the document.

22 MR. DAVIS: Yes.

23 THE COURT: Right?

24 MR. WALL: No, I haven't.

25 THE COURT: So I think he can -- that's overruled,

1 because what I understand reason to believe is not to  
2 authenticate the document, but is a way of using words to ask  
3 him whether he has knowledge or information in his brain,  
4 based on his experience, that is different than what's in  
5 this demonstrative.

6 MR. WALL: Exactly, Your Honor.

7 THE COURT: You can answer.

8 THE WITNESS: Can you state the question again?

9 MR. WALL: Well, his question was better than mine.

10 THE WITNESS: Well, Your Honor -- no.

11 THE COURT: Do you know anything -- well, it's not  
12 clear that whether it's better -- it's actually better or  
13 it's just because I'm the judge -- whether that opinion holds  
14 when you go back to the hotel, I don't know, but my question  
15 was simply: Do you know, based on your work, and what you  
16 know in your head, anything that -- anything at all that  
17 suggests that -- that suggests something other, small or  
18 greatly, than what you see depicted here.

19 THE WITNESS: Yeah, the thing I would say,  
20 Your Honor, is that -- we had talked about this yesterday, as  
21 well, that pricing in 2020 and 2021 was not normal. And as I  
22 mentioned, stage length, generally the pricing for a Spirit,  
23 which is a low cost carrier that really is trying to offer  
24 lowest fares possible is largely driven by the cost of  
25 operating that service. So it's not surprising to me that



1 two more or less equally staged routes end up with similar  
2 pricing. But I really thought the question that Mr. Wall  
3 asked yesterday was does our pricing department start with  
4 the same prices in both markets, and I don't believe that to  
5 be true.

6 Now, through yield management techniques, the fares  
7 end up being similar. That's clear. I have no reason, as  
8 you asked, to dispute this data. But I don't believe our  
9 pricing people look at that and say, well, if this is the  
10 price in Newark, this is the price at LaGuardia.

11 BY MR. WALL:

12 Q. Okay. Why don't we then just move on.

13 THE COURT: So just pause for a second.

14 So one -- stage length is the distance.

15 THE WITNESS: Correct.

16 THE COURT: So if it's 1,200 miles, making that --  
17 just guessing, from generally, Newark or LaGuardia, either  
18 way, to Orlando, then the stage length, that factor is the  
19 same whether it's Newark to LaGuardia to Orlando, or some  
20 other City to Orlando that's 1,200 miles.

21 THE WITNESS: Correct.

22 THE COURT: But part of the stage length would  
23 encompass other costs beyond sort of the cost of flying the  
24 plane, which would be the -- I assume the real estate costs  
25 in New York City are greater than the real estate costs in

1 certain other cities.

2 THE WITNESS: Absolutely.

3 THE COURT: So that's when the -- there must be  
4 fees related to landing, and the like, and those kinds of  
5 things would be baked into the pricing department's thoughts,  
6 whether or not they actually adjusted for that, that doesn't  
7 mean that's the only factor, but they would at least be  
8 considering that.

9 THE WITNESS: They -- pricing generally doesn't  
10 consider the absolute cost, or in certain, the nuances, but  
11 that can come into play, as well. But generally --

12 THE COURT: But you indicated that the stage  
13 length, you would think things of a similar stage length  
14 would be similarly priced.

15 THE WITNESS: Yeah, I believe if we were looking --  
16 if we picked any Spirit markets that were similarly staged, I  
17 think the pricing would probably be fairly similar  
18 ultimately.

19 THE COURT: And that would be because the costs are  
20 similar.

21 THE WITNESS: Yeah. Generally, the bulk of the  
22 cost is from the -- operating the aircraft.

23 THE COURT: Not the --

24 THE WITNESS: Well, the real estate can come into  
25 play, so for example, in the case of Newark and LaGuardia,

1 they are both some of the most expensive airports that we  
2 operate in. So if you say --

3 THE COURT: In terms of labor costs, in terms of  
4 fees, in terms of real estate, all the related things that  
5 have to happen at the airport, each of them is more  
6 expensive.

7 THE WITNESS: In general, the New York airports are  
8 much more expensive than most airports in our system.

9 THE COURT: Okay. I got it.

10 BY MR. WALL:

11 Q. Just so we put a pin on that, I think you made some  
12 reference of it yesterday, but explain again the cost per  
13 enplanement.

14 A. So that's using an industry standard metric. We  
15 usually -- I say CPE, but it's the cost of operating -- of  
16 basically one passenger -- transporting one passenger from  
17 that facility.

18 Q. And the CPE at all the New York airports is much higher  
19 than it is normally throughout the United States?

20 A. Some of the highest in the United States, yes.

21 Q. Okay. All right. Mr. Kirby, let's go back to where we  
22 left off yesterday, which was plaintiffs' Exhibit 892. And  
23 as a reminder, you were sending around an article published  
24 by Skift.com -- actually, excuse me, a colleague was sending  
25 around an article, and you had commented in a cover e-mail,

1 "Not great, he found a bunch of people who say this is good  
2 news." Do you recall that?

3 **A.** Yes.

4 **Q.** And we were walking through the article yesterday, and  
5 when we ended the court day, we were on page 19 of the pdf,  
6 ending in the Bates number 734. And one of the things that  
7 you found was not great was a quotation in the second full  
8 paragraph from a director at the UC Berkely Haas School of  
9 Business and College Engineering, who studies the airline  
10 industry, right?

11 **A.** Well, you're making a little bit of a leap, right? I  
12 made a general statement that they found people that thought  
13 this was a good thing, and now you're saying that I believe  
14 that this specific individual, but I'll say yes.

15 **Q.** Okay. All right.

16 THE COURT: You're saying yes to which question.  
17 I'm a little confused.

18 THE WITNESS: Well --

19 MR. WALL: Yeah, he made a fair point. I put a  
20 couple links in there that I think he fairly is pointing out  
21 that he didn't make. That's fine.

22 THE COURT: Okay.

23 BY MR. WALL:

24 **Q.** In the article that was circulated, one of the quotations  
25 is from someone named Saikat Chaudhuri who is identified as a

1 director at UC Berkeley's Haas School of Business and College  
2 of Engineering, and it says that Mr. Chaudhuri studies the  
3 airline industry, correct?

4 **A.** Yes.

5 **Q.** And his quotation in the article was "I think this is a  
6 brilliant partnership. The alliance addresses strategic  
7 shortcomings at both American and JetBlue while doing so  
8 without the challenges of a merger."

9 That's what he said, correct?

10 **A.** Yes.

11 **Q.** And you thought that Mr. Chaudhuri was correct about  
12 that?

13 **A.** No, actually, in fact, I would agree that the alliance is  
14 great for American and JetBlue, and it does not -- it does  
15 allow them to operate similar to a merger without being  
16 merged, so I would agree with that statement. But I think  
17 overall, I was really thinking about broadly competition is  
18 harmed by this combination.

19 **Q.** Right, but Mr. Chaudhuri references that, as well, below,  
20 right? There's another part of the article below where the  
21 author actually asked him about Southwest and Spirit's  
22 concerns, and Chaudhuri said he does not see the partnership  
23 creating, "De facto monopoly positions." He cited robust  
24 competition in both Boston and New York, Delta has hubs in  
25 both cities, and United and New York hub at Newark Liberty

1 airport. And then he goes on to make another comment about  
2 the slot divestments, correct?

3 **A.** Yeah, he -- that's his opinion.

4 **Q.** Okay. But in your advocacy against the NEA, since the  
5 day that it -- that it was announced, you've had to deal  
6 repeatedly with third parties who were expressing opinions  
7 contrary to Spirit's, haven't you?

8 **A.** Well, again, I read -- I read opinions that were in --  
9 you know, diametrically opposed to our opinion. Yes.

10 **Q.** Well, let's go back to a document you covered yesterday  
11 with Mr. Davis. Take a look at -- it is -- it's already been  
12 admitted as Defendants' Exhibit 489.

13 Do you recall this deck?

14 **A.** I do recall the deck.

15 **Q.** Yeah. So this is a -- this is a deck that was prepared  
16 for Spirit and sent to the DOT in August of 2020 to complain  
17 about the Northeast Alliance, right?

18 **A.** It was a deck that was prepared at our behest by  
19 Campbell-Hill and yes, we did share that with the Department  
20 of Transportation.

21 **Q.** Campbell-Hill is an aviation consultancy?

22 **A.** They are.

23 **Q.** Okay. And let's turn to slide five. And what's included  
24 in this is a statement about a *Washington Post* article that  
25 accurately summarized the unusual nature of the AA/B6

1 strategic partnership, do you see that?

2 **A.** Yes.

3 **Q.** So Spirit seems to be providing a summary of the summary  
4 from the *Washington Post* here, and the first bullet says,  
5 "For JetBlue, the alliance would help it grow at LaGuardia  
6 and Newark airports, it's home New York market and bolster  
7 it's position at Boston-Logan Airport."

8 Do you see that?

9 **A.** Yes.

10 **Q.** And you told the DOT that that was accurate, right?

11 **A.** Yes.

12 **Q.** And it is accurate, right?

13 **A.** Yes.

14 **Q.** Okay. The second bullet says, "Regulators could block  
15 further mergers of major US airlines, so the carriers are  
16 turning to" -- and there's an ellipsis there, "partnerships  
17 that still might generate new revenue."

18 Do you see that?

19 **A.** Yes.

20 **Q.** Do you recall the words that you omitted with the  
21 ellipsis?

22 **A.** No. Again, I was not the author of this document.

23 **Q.** Okay. Do you know that the words were, quote, more  
24 modest, end quote?

25 MR. DAVIS: Objection. Hearsay.

1 MR. WALL: Okay. Let's display the *Washington Post*  
2 article and --

3 MR. DAVIS: Objection, hearsay.

4 MR. WALL: It's not for the truth.

5 THE COURT: What are you offering it for?

6 MR. WALL: I'm offering it for the -- the fact that  
7 the deck that they put in evidence --

8 THE COURT: This was the deck they presented to  
9 whom?

10 MR. WALL: To the Department of Transportation. It  
11 was part of the --

12 THE COURT: Their pitch to DOT to block it or  
13 modify it in some way.

14 MR. WALL: Exactly.

15 THE COURT: All right. Not for the truth, but  
16 overruled.

17 MR. WALL: Okay.

18 BY MR. WALL:

19 **Q.** Let's display the actual *Washington Post* article on which  
20 this is based and the relevant line. It states, "Regulators  
21 could block further mergers of major US airlines, so the  
22 carriers are turning to more modest partnerships that still  
23 might generate new revenue. This is even more critical now  
24 with travel and airline revenue plummeting during the  
25 coronavirus pandemic."



1                   Okay. You didn't provide the full quote to the  
2 DOT, did you, sir?

3     **A.** Again, I was not the author of the document.

4     **Q.** That's fine. So let's go back to this subject matter of  
5 slots that took up a lot of time yesterday, and I think that  
6 we can be pretty quick about this. So you testified  
7 yesterday that Spirit has been interested in slots at JFK  
8 Airport for more than a decade, right?

9     **A.** Yes.

10    **Q.** At LaGuardia, as well, right?

11    **A.** Yes.

12    **Q.** And -- but as you testified, there are these slot  
13 constraints, and it's difficult, if not impossible, to  
14 acquire slots, right?

15    **A.** Yes.

16    **Q.** And realistically, that situation with the slots sort of  
17 locks in the -- the take off and landing positions that  
18 carriers have at these airports, right?

19    **A.** Yes.

20    **Q.** Let's take a look at PX 893 that you discussed with  
21 Mr. Davis yesterday. And take a look at page 18 of the pdf,  
22 which ends in Bates number 50.

23                   Do you remember this one, sir?

24    **A.** I do.

25    **Q.** And so Mr. Davis walked you through the fact that United

1 is by far the largest at Newark in terms of take off and  
2 landing rights, correct?

3 **A.** Yes.

4 **Q.** And Delta is the largest at LaGuardia?

5 **A.** Yes.

6 **Q.** And Delta is the largest at JFK?

7 **A.** Yes.

8 **Q.** Right. And on this chart, in this document, there's no  
9 logo for American anywhere on the slide, right?

10 **A.** Yes.

11 **Q.** There's no logo for JetBlue anywhere on the slide?

12 **A.** No.

13 **Q.** Because the fact of the matter is, is that United  
14 controls over two-thirds of the take off and landing rights  
15 at Newark, right?

16 **A.** Approximately two-thirds, right.

17 **Q.** A little more than that, actually, right?

18 **A.** Yeah. Yeah. At this metric, it's another seven points  
19 above two-thirds.

20 **Q.** And the number of take offs and landings, and therefore  
21 routes and frequencies, and so forth, that United is able to  
22 offer in the New York metropolitan region is a function of  
23 having all of those take off and landing rights, correct?

24 **A.** At Newark, yes.

25 **Q.** And with respect to Delta, it controls almost half of the

1 slots, the combined slots at LaGuardia and JFK, right?

2 **A.** Yes.

3 **Q.** And so once again, Delta's ability to offer all of those  
4 frequencies and routes and so forth is a function of it  
5 having that very large slot portfolios that these two  
6 airports from which it primarily serves New York, right?

7 **A.** Yes.

8 **Q.** Okay. And American and JetBlue are among the airlines  
9 that have to get by with some share of the rest, right?

10 **A.** Some large share of the rest, yes.

11 **Q.** Well, in the case of LaGuardia, it is not true that  
12 JetBlue has -- had, on its own, a large share of the rest, is  
13 it, sir?

14 **A.** Well, again, it depends on your definition of large, but  
15 yes. You are correct, American is the second largest  
16 carrier, but JetBlue operated somewhere around 17 or 18  
17 flights a day, prior to the NEA.

18 **Q.** Right. And I'm going to show you a document in a moment  
19 that has a little more detail on that, but neither American  
20 nor JetBlue has any organic ability to catch up with United  
21 or Delta by matching or even coming close to matching the  
22 take offs and landings that those airlines can offer by  
23 virtue of their superior control over slots or takeoff and  
24 landing rights, correct?

25 **A.** Well, again, you're characterizing them as

1 interchangeable, which I don't believe they are.

2 **Q.** Well, answer my question, anyway.

3 **A.** United has a larger position at Newark than the combined  
4 NEA carriers enjoy at either JFK or LaGuardia.

5 **Q.** Right. And there's nothing that American could do on its  
6 own to get take off or landing rights in the New York area  
7 that are equivalent to the ones that United has, is there?

8 **A.** I can't answer that question.

9 **Q.** Can you think of anything that they could do to get take  
10 off or landing rights equivalent to what United has?

11 MR. DAVIS: Objection. Calls for speculation.

12 THE COURT: Overruled.

13 You can answer.

14 THE WITNESS: Okay. What I would say is  
15 American Airlines is the world's largest airline, and it has  
16 substantially more wherewithal that I may not be aware of  
17 that they may be able to accomplish something that I would  
18 consider to be very difficult. So if you say that looking at  
19 it as an outsider looking in, that it would be challenging  
20 for American to realize a position as great as Delta's, I  
21 would say, yes, it would be challenging, but I don't know the  
22 capabilities of American Airlines' ability to get more  
23 capacity.

24 **Q.** Can you think of anything that American Airlines could do  
25 on its own to catch up with Delta in New York in terms of

1 take off and landing rights or slots?

2 **A.** Again, I would answer it the same way, that the world's  
3 largest airline has more wherewithal than any carrier that  
4 I've worked at, so they may be able to accomplish some things  
5 that I wouldn't be able to. But, yes, it would -- I presume  
6 it would be very challenging, as an observer looking at it,  
7 to realize a position as large as Delta's.

8 **Q.** Mr. Kirby, let's go back to Plaintiffs' Exhibit 890 that  
9 you discussed with Mr. Davis.

10 THE COURT: I'm sorry, one question just before we  
11 get there, Mr. Wall.

12 Airlines, I take it, are entitled to sell the slots  
13 to another airline if they want, or does that have to go  
14 through DOT?

15 THE WITNESS: Generally, it depends on the  
16 magnitude. But typically, they have to go through DOT. And  
17 the interesting thing about slots, Your Honor, is that  
18 technically they're owned by the government. In fact, back  
19 in the early part of my career, carriers would even try to  
20 trade, because they had a slot number associated with it in  
21 terms of what would be withdrawn first of the government.  
22 They were to withdraw the position. So carriers would  
23 actually send money in equal amounts of slots to get higher  
24 numbers to avoid the withdrawing.

25 Over time, it's evolved into something that's

1 considered a piece of equity for the carrier. So they do buy  
2 and sell them, but typically anything more than a couple  
3 slots probably would have some kind of regulatory oversight.

4 THE COURT: For the same reason mergers and  
5 alliances and the like have regulatory approvals.

6 THE WITNESS: Yes.

7 THE COURT: Okay. Go ahead.

8 BY MR. WALL:

9 Q. Okay. Mr. Kirby, let's go to Plaintiffs' Exhibit 890  
10 that you discussed with plaintiffs. And this is a  
11 presentation that was actually made to the DOJ by the Paul  
12 Weiss firm. Correct?

13 A. Yes.

14 Q. And the -- a substantial amount of the content in this  
15 particular presentation is about slots and issues related to  
16 slots that you think arise from the NEA, right?

17 A. I'd like to review the document.

18 Q. Of course. You should have a binder up there --

19 A. Yup.

20 Q. -- that has 890 in it. And if you ever think you need to  
21 review a document to answer my questions, you are more than  
22 welcome to do so, sir.

23 A. Yeah, this is the first time that I mean -- I've been  
24 working with the screen until now. So 890?

25 Q. 890, sir.

1     **A.**   Okay.  Mr. Wall, your question is does this document  
2     discuss slots?

3     **Q.**   Among other topics.

4     **A.**   Sure.  Yes, then.

5     **Q.**   Okay.  Why don't we pull up the overview slide.  I think  
6     it's the second slide in the PowerPoint.  And if -- if I  
7     understand correctly, the third bullet is directed to a  
8     discussion of, "Slot portfolios," among other things,  
9     correct?

10    **A.**   Yes.

11    **Q.**   And the last -- under the last major bullet  
12    of, "Potential competitive concerns," there are three  
13    sub-bullets, and then a sub sub-bullet at the end that are  
14    all about slots, right?

15    **A.**   The last three and the sub-bullet, yes.

16    **Q.**   Okay.  So turn, if you would, to slide 7.  And slide 7 is  
17    one of two slots -- excuse me, two slides in which you  
18    present certain data about slot holdings and slot operations  
19    on the next slide at various airports, right?

20    **A.**   Yes.

21    **Q.**   And in -- could you explain what the difference is  
22    between the slot holdings that are depicted on slide 7, and  
23    the slot operators and the associated percentages that are on  
24    slide 8?

25    **A.**   Yeah.  Well, I'll go into it and try to keep it concise.

1 Carriers operate -- or rather, have slot holdings that's  
2 managed by the FAA. But in any given environment, we're  
3 talking about this a little bit yesterday, they may not be  
4 operating all of them. They may have another carrier  
5 operating them. So there's -- there's different ways that  
6 they operate. They may be operated by a regional affiliate,  
7 which may cause some variance. So it's generally what they  
8 hold is the document on the left. That's Document 131, the  
9 ones that they actually have some ownership to. And then in  
10 any given slot season, different carriers may be operating  
11 that portfolio.

12 **Q.** So you would expect to see a little bit of variation  
13 between the holdings and the operations.

14 **A.** Yeah, especially for the larger carriers.

15 **Q.** Okay. But what you're depicting here, starting with the  
16 slot holdings slide, is that Delta holds by these metrics,  
17 44.8 percent of the LaGuardia slots, right?

18 **A.** Yes.

19 **Q.** So that's -- that's about 56 percent more slots than  
20 American, right?

21 **A.** I'll trust your math.

22 **Q.** And it's many times, I think it's over 16 times as many  
23 slots as JetBlue has at LaGuardia, right?

24 **A.** Yes.

25 **Q.** And even if you add American and JetBlue together, Delta



1 still has over 40 percent more slots at LaGuardia, right?

2 **A.** Yes.

3 **Q.** Now, at JFK, Delta has, by this measure, exactly twice as  
4 many slots as American, right?

5 **A.** Yes.

6 **Q.** And 25 percent more than JetBlue, right?

7 **A.** Yes.

8 **Q.** And, as we've discussed, as a practical matter, those  
9 shares of slots are fixed, right?

10 **A.** Again, the holdings, yes.

11 **Q.** Okay. You can put that down.

12 Now, the reason why ULCCs have a small share of the  
13 slots at the New York City airports is because of the way  
14 that slots are regulated by the FAA and the DOT, right?

15 **A.** That's a broad -- I would say the reason the large  
16 carriers have is they were around longer and secured those  
17 positions before many of the LCCs were in existence.

18 **Q.** Right. And what I'm getting in particular is, for all  
19 intents and purposes, slots are kept by their owners unless  
20 they fail to utilize them sufficiently, right?

21 **A.** Yeah. But I would -- or they're forced to divest those  
22 assets as part of some either merger or some slot deal.

23 **Q.** Right. And that's a key point is the one significant  
24 exception, the one significant avenue for smaller carriers to  
25 get slots is through the divestitures that might fall out of

1 some legal or regulatory proceeding, right?

2 **A.** Yes. And there were some in '21, back at the -- back at  
3 the beginning of this millennium, that also allowed for more  
4 -- some slot positions were expanded and then you also had  
5 beyond perimeter. So there are some exceptions that allow  
6 other carriers to get more capacity, as well. But in  
7 general, your statement is accurate.

8 **Q.** Okay. And one of the concerns that Spirit has had is  
9 that the so called 80/20 use it or lose it rule is too easy  
10 for the legacy carriers to meet. Right?

11 **A.** If you're a large slot holder, yes, you can use that rule  
12 to not operate these valuable or really consumer -- or  
13 benefit the traveling public. Valuable assets is really what  
14 I'm trying to say.

15 **Q.** And one of the things that Spirit has complained about  
16 over the years about the FAA policies is that it tolerates  
17 carriers flying smaller planes on slots in order to meet the  
18 utilization requirements, right?

19 **A.** Yeah. It's our position that these are constrained  
20 assets they should be used to the greatest public benefit.  
21 And by flying very small-gauge aircraft short distances just  
22 to hang on to that capacity is somewhat disingenuous, but as  
23 I've said before, not illegal.

24 **Q.** Right. And I mean that's kind of what I'm leading up to.  
25 The reality is that the criticisms that Spirit has about the

1 slot system are really criticisms about the policies not  
2 being in what you regard to be the consumer's best interest,  
3 right?

4 **A.** I think that's fair.

5 **Q.** Okay. Now, to the extent that, as a result of this or  
6 any other legal proceeding, American Airlines were to lose  
7 slots, that would actually exacerbate its slot disadvantage  
8 relative to Delta, right?

9 **A.** Versus Delta, yes.

10 **Q.** Okay. When the NEA was announced in July 2020, among  
11 your first thoughts was is this an opportunity to obtain some  
12 slot divestitures, right?

13 **A.** No.

14 **Q.** No? Okay. Let's take a look at another e-mail from that  
15 day. It's already been admitted into evidence as Defendants'  
16 Exhibit 481. I don't think you need to go to your binder on  
17 this one. It's a -- we'll show you what you need to, but  
18 you're welcome to.

19 This is an e-mail exchange between you and a number  
20 of colleagues at Spirit, right?

21 **A.** Yes.

22 **Q.** Could you identify Chip Sandifer and Nick Bartolotta?

23 **A.** Yeah. Chip Sandifer is our vice president of corporate  
24 real estate. Nick Bartolotta was, at the time, my senior  
25 director of network planning.

1 Q. Of network planning?

2 A. Yes.

3 Q. Okay. And corporate real estate refers to things like  
4 slots, gates, and other infrastructure needs for the airport,  
5 right?

6 A. Not slots.

7 Q. Not slots?

8 A. Infrastructure, so other -- basically airport real  
9 estate, but not slots.

10 Q. Okay. But part of Mr. Sandifer's responsibilities is to  
11 help secure infrastructure at airports, right?

12 A. Yes.

13 Q. And he's e-mailing you just hours after the NEA is  
14 announced, and he is saying, "One topic for tomorrow is New  
15 York, with the B6/AA announcement, I think we should talk  
16 about our objectives and potential opportunities at  
17 LaGuardia, Newark, JFK. Since their deals need approval, is  
18 there a window to force our way into JFK slots, additional  
19 LGA slots."

20 Do you see that?

21 A. Yes.

22 Q. And you respond, "Yes on JFK," which I gather just means  
23 yes, let's put it on the agenda to talk about?

24 A. Yes.

25 Q. Okay. And that day, Spirit contacted its DOT counsel at

1 the law firm of Christie and Young in Washington, D.C., they  
2 get to work on issues relating to the NEA, right?

3 **A.** Yes.

4 **Q.** And that day, Spirit reached out to the Campbell-Hill  
5 consultancy to get to work on issues relating to the NEA,  
6 right?

7 **A.** Do you have that document? Again, I don't doubt you as  
8 much as my memory wasn't -- I'm not sure if we did it the  
9 same day or the next day. Maybe that's not material.

10 **Q.** It's not material.

11 **A.** Okay. Okay.

12 **Q.** Now, let's take a look at Plaintiffs' Exhibit 894. This  
13 is a letter from Spirit's outside counsel to the deputy  
14 secretary of the DOT, and the assistant attorney general for  
15 antitrust at the DOJ that is attached to an e-mail that you  
16 are sending to various people. Right?

17 **A.** Yeah, primarily in this e-mail, it's the corporate  
18 communication department.

19 **Q.** Right. And what you're saying is that, "The issue we  
20 shared on our last call was accelerated and we've seen this  
21 letter to DOT and DOJ," right?

22 **A.** Yes.

23 **Q.** Okay. And looking at the letter, that's dated July 20th,  
24 right?

25 **A.** Yes.

1     **Q.** The NEA was announced on Thursday, July 16th, and you  
2     have a letter in front of the DOJ and the DOT on Monday,  
3     July 20th, right?

4     **A.** Yes.

5     **Q.** Okay. And much of the messaging in this letter is about  
6     slots and the idea that if the NEA is allowed, there needs to  
7     be slot divestitures to ULCCs like Spirit, right?

8     **A.** Again, I'd like to look at the document.

9     **Q.** It's in your binder. It's in the Plaintiffs'  
10    Exhibit binder, the one that Mr. Davis was using, which is  
11    Exhibit 894.

12           THE COURT: Coming to the conclusion, Mr. Wall,  
13    that in the private practice of law, there are no weekends.  
14    There's just no boundary to the workday.

15           MR. WALL: The audience to which you have just  
16    directed that comment knows it so well right now.

17           THE WITNESS: Okay. What I would say, though,  
18    there is mention to the remedy potentially being a slot  
19    divestiture, but it is not the dominant -- the sort of, I'd  
20    say, position of this paper.

21           Again, one of the things that we have to remember  
22    with this is we didn't -- we didn't know everything about  
23    the -- in fact, we still don't know everything about the NEA.  
24    At the time, we knew it was a co-chair. And so we're looking  
25    at this, really, with fresh eyes, saying -- and again, the

1 e-mail that we looked at yesterday, that I think you also  
2 pulled up, my first response was, "I think this is bad." But  
3 part of due diligence process is you have to look at all the  
4 possibilities. At the time, we were thinking this was a  
5 codeshare. You have to consider that there may be  
6 divestitures, and while that wasn't the first thing that I  
7 thought of, you have to at least do the due diligence, but  
8 since we've learned more about the level of coordination,  
9 corporation, and revenue sharing of this document, we have  
10 stopped working on any kind of remedy. We've stopped working  
11 on any analysis of the divestitures. We think this is a bad  
12 thing.

13 **Q.** Mr. Kirby?

14 **A.** Yeah.

15 **Q.** Throughout the entire process of the DOT, you were  
16 arguing that there should be slot divestitures, weren't you?

17 **A.** I was not. Our attorneys suggested that that was -- that  
18 was -- that could be a potential remedy.

19 **Q.** Spirit was arguing, throughout the entire process, that  
20 there needed to be slot divestitures, weren't there?

21 **A.** They were arguing that that could be a potential remedy,  
22 but they -- the strongest argument that we put forth was  
23 transparency. This process was very different than any other  
24 codeshare review done by the DOT to my knowledge.

25 **Q.** Since you are suggesting that this was sort of an

1 evolution of thinking, why don't we just move on to a little  
2 later in the chronology?

3 MR. DAVIS: Objection to counsel testifying.

4 THE COURT: Sustained.

5 BY MR. WALL:

6 Q. Spirit found out that there were likely to be slot  
7 divestitures as a result of a DOT agreement, before that  
8 agreement was publically announced, right?

9 A. Before it was publically announced?

10 Q. Yes.

11 A. Well, when was it publically announced? When we filed --  
12 if we're talking about the January 6th, would that be  
13 public -- I don't recall it being publically denounced.

14 Q. When the agreement was -- you recall the date. You  
15 recall the event, right?

16 A. Maybe I'm -- maybe I'm misunderstanding what  
17 publically --

18 MR. WALL: Okay.

19 THE COURT: Is your question did Spirit learn that  
20 there would be slot divestitures before DOT -- or JetBlue and  
21 American publically announced that?

22 MR. WALL: Yes.

23 THE WITNESS: Oh, did you say publically announced?

24 BY MR. WALL:

25 Q. Right. You had a heads up through your counsel --



1     **A.** Before it was approved.

2     **Q.** -- before it was approved.

3     **A.** Okay. Sorry, I misheard you, I thought you said it was  
4     publically de -- yes, we were aware that there could be  
5     divestitures prior to the approval.

6     **Q.** Okay. And what you did was you ended up filing a formal  
7     complaint against the NEA just on the eve of the announcement  
8     of the DOT agreement, right?

9     **A.** We filed the complaint on, I believe, Jan 6th or 7th.

10    **Q.** Right. And let's pull that up that was discussed  
11    yesterday. It's Plaintiffs' Exhibit 895, and this is another  
12    e-mail that you're sending to the Corp communications team at  
13    Spirit, right?

14    **A.** Yes.

15    **Q.** And then it references -- you're giving them a heads up  
16    on the filing that you're making at the DOT, right?

17    **A.** Yes.

18    **Q.** And you're saying it's a public filing, right?

19    **A.** Yes.

20    **Q.** Okay. And the filing asks for investigation -- a formal  
21    investigation of the NEA, right?

22    **A.** Yes.

23    **Q.** And the date that you filed that request is January 7,  
24    2021, right?

25    **A.** Yes.

1 Q. And that's almost six months after the NEA was announced,  
2 right?

3 A. The agreement was announced publically, yes, but before  
4 it was approved.

5 Q. And in your complaint, you come right out and state very  
6 specifically that more slot divestitures are required to  
7 remedy what you see as the effects of the NEA, correct?

8 A. Again, I've got to look at that document.

9 Q. It's paragraph 4, sir, we'll put it up on the screen.

10 A. Okay. That will be great.

11 Q. And you can see the last sentence of paragraph 4  
12 states, "At a minimum, significant slot divestitures in the  
13 range of 16 slot pairs at each of the affected New York  
14 airports and DCA would be required."

15 Right?

16 A. Yes. I see that statement.

17 Q. Okay. Now, today, the department has not granted  
18 Spirit's request for that new formal investigation, right?

19 A. No.

20 Q. But you keep trying, right?

21 A. We keep trying.

22 Q. You keep trying to get the DOT to take action, right?

23 A. Well, this was -- my understanding is this is our last  
24 filing before the deal was announced and we had not filed  
25 anything subsequently to that, subsequent to that.

1     **Q.** Let's talk about the effects of the NEA. I -- I asked  
2     you at your deposition whether you were aware of any ordinary  
3     course internal analysis within Spirit that shows that  
4     JetBlue has changed its pricing philosophy as a result of the  
5     NEA. Do you remember that?

6     **A.** Yes.

7             MR. DAVIS: Objection. Hearsay, improper  
8     impeachment, counsel is reading from a deposition without any  
9     foundation.

10            MR. WALL: I'm just going to ask him whether he has  
11     anything more recent.

12            THE COURT: Overruled.

13     BY MR. WALL:

14     **Q.** Okay. So given the time that's passed, have you come  
15     across any ordinarily course internal analysis within Spirit  
16     that shows that JetBlue has changed its pricing philosophy as  
17     a result of the NEA?

18     **A.** As I said before, I believe they are on their best  
19     behavior, and no, I have not.

20     **Q.** On the other hand, you have observed JetBlue taking  
21     aggressive competitive actions against American in nonNEA  
22     airports like Miami, right?

23     **A.** I wouldn't characterize it as aggressive.

24     **Q.** Would you characterize it as borderline reckless?

25     **A.** Well, at the statement I made, I was talking very

1 broadly, because I know what e-mail you're talking about. I  
2 was talking about a broad amount of new markets that they had  
3 added at that time, I believe, in that e-mail.

4 **Q.** Let's pull up Defendant's Exhibit 464. Can you identify  
5 for the Court what this e-mail is and what caused it to come  
6 about?

7 **A.** Yeah, JetBlue made a fairly substantial service expansion  
8 announcement.

9 **Q.** In South Florida?

10 **A.** My understanding was if you keep scrolling down, there's  
11 services that are not included, that are not -- do not touch  
12 Miami. I think they were --

13 **Q.** I'm sorry. You're right. I'm sorry. I didn't mean to  
14 suggest otherwise, but you're particularly focused on the  
15 service adds that affected South Florida, where Spirit is  
16 based, right?

17 **A.** No, this statement was based on really the broad amount  
18 of capacity that they were adding at that time.

19 **Q.** What happened -- what happens in this e-mail is Tim  
20 Archer e-mails you and Mr. Bartolotta, stating, "So B6 is  
21 taking on AA and UA in Miami?"

22 Right?

23 **A.** Yes.

24 **Q.** And you respond, "Yes, I would call this route expansion  
25 borderline reckless."

1 Yes?

2 **A.** Yes, I said that. But again, I don't explicitly cite  
3 Miami. I say "route expansion," and I really was talking  
4 broadly in this document.

5 **Q.** Now, one thing that you do not believe about the NEA,  
6 Mr. Kirby, is that it is going to be the cause of changing  
7 JetBlue from what you regard as a true low cost carrier into  
8 something else, right?

9 **A.** I'm sorry. Say that again?

10 **Q.** Let me put it this way. You have taken the position,  
11 personally, and your company has taken the position for some  
12 time that JetBlue wasn't a low cost carrier by the time that  
13 it entered into the NEA, right?

14 **A.** What I would say is that, yes, we have used that in some  
15 documentation. And what I also said with -- previously was  
16 that they still have lower cost than the legacy carriers.

17 **Q.** Indeed and Spirit has consistently been arguing in the  
18 last few years to the DOT that because it doesn't qualify as  
19 what you regard as a true low cost carrier, it shouldn't  
20 be -- have the privileges with respect to things like slots  
21 that are afforded to low cost carriers, right?

22 **A.** Yeah, and I think you'd have to show me that, because  
23 that's a very broad statement that we've been making.

24 **Q.** Well, happily. So let's go to Defendants' Exhibit 491,  
25 which is that letter that we've already talked about, that

1 Spirit sent regarding the NEA days after the announcement in  
2 July of 2020. And on the third page of the letter, and the  
3 third full paragraph, an assertion is made, quote, "The  
4 carriers that generate lower fares are Southwest and the  
5 ultra low cost carriers, ULCCs." Do you see that?

6 **A.** Yes.

7 **Q.** You left out JetBlue, right?

8 **A.** Well, yes. But I also think that in this document, we  
9 were, again, responding to -- so we were leaving JetBlue out  
10 because it was part of the NEA, as well. But I'll be fair to  
11 you, I know in the Campbell-Hill document, there is a chart  
12 that talks about that JetBlue is moving away from the LCC  
13 model. So I will say that what I've observed is they do --  
14 they are moving away from a traditional LCC model and moving  
15 towards more of a legacy type model.

16 **Q.** Right. You have taken the position that overtime JetBlue  
17 has been losing any claim to low cost carrier status, right?

18 **A.** Again, where --

19 **Q.** It's a different document, sir. Let's pull up --

20 **A.** Yeah, if you could just pull it up. It's not that I'm  
21 doubting you, but it's helpful for me to see it in print.

22 **Q.** Okay. Defendants' Exhibit 492, which is one of these  
23 letters that was written to the Department of Justice in  
24 early August. Third page of the letter, top paragraph.

25 "Over time, JetBlue has been losing any claim to low cost

1 carrier status."

2 **A.** Sorry, I'm not quite -- I'm on page 2. It looks like you  
3 need to go one more page. Okay.

4 We're still not quite there.

5 **Q.** Hold on. Give us a second.

6 **A.** Okay. So again, that statement is that it has been  
7 losing, not lost, and we're saying that this agreement, we  
8 think, will likely exacerbate, not -- and we do agree with  
9 that.

10 **Q.** Okay. But just to finish it out, in the context of -- of  
11 advocating in favor of a merger with Frontier, Spirit went so  
12 far as to refer to JetBlue as a high cost, high fare carrier,  
13 right?

14 **A.** Yes. Relative to Spirit. If you want to show me the  
15 statement, I don't know if that was the one that -- if it's  
16 in the broad document, or if it's attributed to our CEO.

17 MR. WALL: Thank you, Mr. Kirby. I have no further  
18 questions.

19 THE COURT: Redirect.

20 MR. DAVIS: Thank you, Your Honor.

21 **REDIRECT EXAMINATION BY COUNSEL FOR PLAINTIFF USA**

22 BY MR. DAVIS:

23 **Q.** So, Mr. Kirby, starting with the last point, Mr. Wall was  
24 asking you whether JetBlue, over time, had been observed  
25 losing some claim to LCC status, right?

1       **A.**    Yes.

2       **Q.**    And some of that trend you observed before the NEA,  
3       correct?

4       **A.**    Yes.

5       **Q.**    What did the NEA do to that trend?

6       **A.**    Well, again, if you play through what's likely to happen,  
7       really you're talking about a duopoly at JFK and LaGuardia,  
8       and we've talked about the various (G8) studies that say  
9       legacy carriers really don't compete on price. We also know  
10      that part of the NEA is reciprocity with an earn and burn  
11      loyalty program. And we know that American enjoys the  
12      largest loyalty program in the world, as well, and that  
13      JetBlue's cost will have to go up, one way or the other,  
14      because of the earn and burn -- well, let me say -- let me  
15      back up a little bit.

16               MR. WALL:  Objection, Your Honor.  This is getting  
17      way into speculation and there's no foundation for it at all.

18               THE COURT:  I think it might be beyond the scope of  
19      the question at this point.

20               MR. DAVIS:  I'm sorry, Your Honor.

21               THE COURT:  I think it might be beyond the scope of  
22      the question.

23               MR. DAVIS:  I'll narrow it.

24      BY MR. DAVIS:

25      **Q.**    In your opinion, does the NEA hasten JetBlue's movement



1 toward being a higher cost carrier?

2 **A.** In my opinion, yes.

3 **Q.** And that their cost structure will go up as a result of  
4 the NEA?

5 MR. WALL: Objection.

6 MR. SCHWED: Objection, speculation and leading.

7 THE COURT: Sustained as to the form.

8 BY MR. DAVIS:

9 **Q.** What's your opinion about the effect of the NEA on  
10 JetBlue's cost structure?

11 MR. SCHWED: Objection, foundation and speculation.

12 THE COURT: I'm going to let him answer it and then  
13 you've got to ask him a follow-up question as to what's the  
14 basis for that and then we'll see. Overruled.

15 THE WITNESS: There's two things that I think of.  
16 The larger footprint, we talked about this a little earlier,  
17 LaGuardia and JFK are some of the more expensive airports.  
18 So to the extent that JetBlue has more service in and out of  
19 LaGuardia and JFK, their costs are likely to go up.

20 And then, as I was starting to talk about a little  
21 bit, the frequent traveler program is the other element that  
22 can come into play, as Mosaic travel members on JetBlue use  
23 American Airlines to redeem their points, the JetBlue, then,  
24 would have to purchase, at least that's usually what happens,  
25 American Advantage miles at some cost. And the likelihood is

1 that that purchase would lead to higher costs from JetBlue,  
2 again, not knowing the full extent of the NEA agreement, for  
3 all I know, maybe American is giving them for free, but then  
4 American would have that liability.

5 **Q.** So Mr. Kirby, what's the foundation for the answer you  
6 just gave?

7 **A.** The combination of the likely cost to JetBlue of the  
8 loyalty program coupled with the higher cost concentration at  
9 airports that they serve.

10 THE COURT: Can I just -- so you say one reason the  
11 cost would be more is because they have more service at these  
12 expensive airports.

13 THE WITNESS: Yes.

14 THE COURT: But the cost -- but that would be  
15 spread across more flights.

16 THE WITNESS: Yes. But the absolute cost of  
17 operating at these very expensive airports is still going to  
18 raise their overall cost. And Your Honor, my point, really,  
19 is that --

20 THE COURT: But how does that change -- I mean,  
21 that's just -- if you have flights there -- you're an ultra  
22 low cost carrier, right?

23 THE WITNESS: Yes.

24 THE COURT: And you would like to have flights at  
25 JFK and LaGuardia, right?

1 THE WITNESS: Yes.

2 THE COURT: And assuming you get a critical mass,  
3 or what have you, right? But then that increases your cost  
4 structure.

5 THE WITNESS: Yes.

6 THE COURT: But that's spread across flights in New  
7 York, where that's presumably baked in, to some degree.

8 THE WITNESS: Yes, but really the point is -- and  
9 I'll just -- if 50 percent of your flights are in LaGuardia  
10 and Newark versus 25, your overall costs have to go up. Now,  
11 you're doing that because you believe serving the New York  
12 area airports, you're also able to get higher revenue, as  
13 well. So it's that tradeoff.

14 THE COURT: But everybody has higher costs in New  
15 York.

16 THE WITNESS: Yes.

17 THE COURT: That seems -- okay.

18 THE WITNESS: Really, again, it's just a higher  
19 percentage. The more flights you operate out of New York  
20 airport, the percentage of your overall service levels, your  
21 costs are going to go up.

22 THE COURT: But that seems like a different cost  
23 factor than say running five flights a day out of one gate  
24 versus ten flights a day out of one gate.

25 THE WITNESS: You can lower your cost by --

1 THE COURT: By doing that, but one is how you  
2 operate, and one is where you operate. Someone is operating  
3 in New York.

4 THE WITNESS: Yes.

5 THE COURT: Okay. I understand. Go ahead.

6 BY MR. DAVIS:

7 Q. All right. Mr. Kirby, you were asked about --

8 MR. SCHWED: Based on the foundation, I would move  
9 to strike his testimony on the frequent flyer benefits. He  
10 has no basis. He doesn't know what the agreement is, and I  
11 would move to strike that.

12 THE COURT: You got a point.

13 BY MR. DAVIS:

14 Q. Mr. Kirby, have you worked at airlines that have frequent  
15 flyer plans?

16 A. Yes.

17 Q. And are you familiar with the costs associated with  
18 servicing those plans?

19 A. Not intimately the exact cost, but again, obviously  
20 Spirit has a frequent traveler program, and prior airlines I  
21 work with have frequent traveler programs.

22 THE COURT: Here's what I'm going to do with the  
23 objection. I'm going to overrule the objection, but I'll  
24 just tell all of you, I don't know how much weight -- that  
25 strikes me as a possible issue, but it depends on what the

1 contract says and it depends on how the contract works. If  
2 the contract works the way he says it works, that would be  
3 something that might have -- I don't know how much weight,  
4 but something, if the contract works differently than that,  
5 then I mean, I'll be honest with you, I won't pay any  
6 attention to that, because it's not what the contract  
7 provides.

8 I will say one thing that just -- this reminds me  
9 of something that I've been thinking about, because I've been  
10 reviewing, going through the contracts. The relevant  
11 portions or the key portions of the contract, I assume  
12 somebody is going to be digging into that at some point in  
13 testimony, and that would be, like, something I'll be  
14 thinking about, because I think, obviously, a lot of this --  
15 a lot of things that people referred to depend on the  
16 significance, import, and provisions of particular portions  
17 of the contract, like, for example, this. Not the only one,  
18 but it just comes up right here. So I assume you're probably  
19 all thinking about that, but I just wanted to raise it,  
20 because it's occurred to me. Go ahead.

21 MR. DAVIS: Thank you, Your Honor.

22 BY MR. DAVIS:

23 **Q.** Mr. Kirby, you were asked about the DOT proceeding  
24 regarding the NEA in which Spirit filed a complaint, right?

25 **A.** Yes.

1     **Q.** And you were asked about DOT's approval of the NEA. Do  
2     you recall that?

3     **A.** I was asked about the -- the timing of the approval that  
4     was close to the complaint, yes.

5     **Q.** Is it your understanding that DOT approved the NEA?

6     **A.** Well, they're allowing it to go forward, yes.

7     **Q.** They did allow it to go forward, but on what terms? Do  
8     you know?

9     **A.** No, I don't specifically know the terms.

10    **Q.** And Mr. Kirby, you filed a complaint, as you said, Jan  
11    7th, '21, Spirit Airlines, right?

12    **A.** Yes.

13    **Q.** And do you know whether other entities filed in support  
14    of your complaint?

15    **A.** My recollection was that Southwest Airlines also filed.

16    **Q.** Right. And do you know the present, formal status of  
17    that complaint at the DOT?

18    **A.** I do not.

19           THE COURT: The Southwest complaint or the Spirit?

20           MR. DAVIS: I'm sorry, Spirit's complaint,  
21    Your Honor.

22           THE WITNESS: Yeah, subsequently, Your Honor,  
23    Southwest also.

24           THE COURT: Right. And you don't know the status  
25    of the complaint.

1 THE WITNESS: I do not.

2 BY MR. DAVIS:

3 Q. So you don't know whether DOT stayed resolution of that  
4 complaint, pending the outcome of this lawsuit?

5 A. I do not.

6 Q. All right. Now, counsel asked you, in your  
7 cross-examination, to imagine ways that American Airlines  
8 could get more slots at LaGuardia and JFK. Do you recall  
9 that?

10 A. Yes.

11 Q. He was asking you to come up with some way that you could  
12 think of that American Airlines could reach even higher and  
13 get a higher level of slots at those slot constrained  
14 airports, right?

15 A. Yes.

16 Q. But you've also testified that American Airlines already  
17 has slots at JFK, right?

18 A. They do. They're the second largest carrier there.

19 Q. And American Airlines already has slots at LaGuardia,  
20 right?

21 A. Yes.

22 Q. And actually, before the NEA, they had more slots than  
23 they do now, because of their transaction with JetBlue,  
24 right?

25 A. Well, that goes to the sort of whole versus operate. So

1 what I've observed is that JetBlue has grown dramatically.  
2 In LaGuardia, especially, they're up about almost 200 percent  
3 in departures at LaGuardia, and up about just under  
4 20 percent at JFK.

5 **Q.** Right. So before the NEA, did American need more slots  
6 at LGA and JFK?

7 **A.** I don't think I can answer that question.

8 **Q.** All right. Do you know whether they were efficiently  
9 using the slots they already had?

10 **A.** Well, what I would mention -- and this is --

11 THE COURT: Efficiently or maximally?

12 MR. DAVIS: Sorry?

13 THE COURT: Efficiently or maximally?

14 MR. DAVIS: Maximally.

15 THE WITNESS: Yeah. What I would say is what I  
16 observed is that American at JFK asked for slot waivers from  
17 the FAA in the summer 2018 season and also in the winter 2018  
18 season -- or sorry, '19 winter -- Summer 2019, Winter 2019  
19 slot season. In the summer season, they proactively  
20 approached the FAA and volunteered to operate about 20 slot  
21 pairs less than they held to help with construction. And  
22 subsequently, they used -- in the wintertime, they blame the  
23 MAX aircraft and asked FAA to give them a waiver for  
24 approximately that same number, 20 slot pairs for the winter  
25 season.



1     **Q.** So was there any sign before the NEA that American was  
2     bursting at the seams with a need for more slots in order to  
3     compete with Delta?

4     **A.** Certainly not at JFK.

5     **Q.** Now, what does the NEA allow American to do with its not  
6     maximally used slots at JFK and LaGuardia?

7     **A.** I believe they call it pooling and so they pool their  
8     slots with JetBlue and American, and then they discuss and  
9     optimize who should you fly and what capacity.

10    **Q.** And as you say, JetBlue is now doing a lot of that flying  
11    out of LaGuardia, right?

12    **A.** Yeah. It definitely appears that JetBlue is prioritized  
13    flying the NEA capacity over some of the previous  
14    initiatives.

15    **Q.** All right. And does -- you already testified that Spirit  
16    wants slots at LaGuardia, right?

17    **A.** Yes.

18    **Q.** And potentially at JFK, right?

19    **A.** If we should achieve critical mass, yes.

20    **Q.** If Spirit could do that, would Spirit underutilize those  
21    slots?

22    **A.** Well, I would say history says the answer is no.

23    **Q.** And why is that?

24    **A.** Because Spirit is a high -- every slot that Spirit has is  
25    highly utilized.

1     **Q.** All right. Let's talk -- you were asked by Mr. Wall at  
2     the beginning of your testimony about benefits to consumers  
3     from the frequent flyer plan expansion. Do you recall that?

4     **A.** Yes.

5     **Q.** Now, a more expanded frequent flyer plan is more expanded  
6     by definition, right? It's bigger for consumers?

7     **A.** Yes. It provides benefits to the frequent travelers of  
8     those -- the carrier.

9     **Q.** All right. But Mr. Wall didn't ask you about the cost of  
10    an expanded frequent flyer plan, did he?

11    **A.** No.

12    **Q.** And would you agree that to evaluate whether an expanded  
13    frequent flyer plan is actually better, you have to consider  
14    the cost?

15    **A.** I just want to make -- can you clarify that a little bit?  
16    In other words, are you talking about the cost of the program  
17    or the cost to the consumer?

18    **Q.** Both. They're costs associated with a frequent flyer  
19    plan, right?

20    **A.** Certainly the more passengers that are members, the more  
21    liability raises the cost. I think in one of the documents,  
22    the American Airlines liability is greater than JetBlue's  
23    total revenue, annual revenue. So certainly as the program  
24    gets bigger, the liability would get larger.

25                   And you know, in terms of cost to the passenger,

1 certainly a larger program could make, say, benefits harder  
2 to achieve. So in theory, it could take more miles or points  
3 to achieve something that -- a vacation that maybe they could  
4 achieve previously for a lower number.

5 **Q.** Now, you understand further that a frequent flyer  
6 agreement is only one part of the NEA, right?

7 **A.** Yes.

8 **Q.** And that the NEA also involves capacity coordination and  
9 revenue sharing, right?

10 **A.** Yes.

11 **Q.** So the NEA comes along with -- coming along in the NEA  
12 with a frequent flyer plan that's bigger is capacity  
13 coordination and revenue sharing, right?

14 **A.** Yes.

15 **Q.** All right. And are there costs to that?

16 MR. SCHWED: Objection, Your Honor. He's  
17 speculating about costs I assume of JetBlue and American,  
18 under agreements that he hasn't seen.

19 THE COURT: Sustained.

20 BY MR. DAVIS:

21 **Q.** Let me ask it this way, Mr. Kirby. Is there any reason  
22 why, to get an expanded frequent flyer plan, you have to have  
23 capacity coordination along with it?

24 MR. SCHWED: Objection, Your Honor.

25 THE COURT: To be honest with you, Mr. Davis, I

1 understand that there's a lot of feature to these agreements,  
2 right? Capacity, coordination, frequent flyer program, and I  
3 would assume in the free market, they can -- putting aside  
4 whatever -- the approvals required or the antitrust review,  
5 other than that, they could make a deal with any sort of  
6 combination of features. They could do a -- no one is  
7 arguing that you can't make a deal with frequent flyer  
8 without more. And we've already heard evidence of  
9 international alliances where there might be a frequent flyer  
10 relationship and not much else. I think I understand that.  
11 If that's your point.

12 MR. DAVIS: And can I follow-up just on that point,  
13 Your Honor?

14 THE COURT: Sure.

15 BY MR. DAVIS:

16 **Q.** Mr. Kirby, do airlines regularly have reciprocal frequent  
17 flyer agreements between themselves?

18 **A.** Again, that's sort of broad, but you know, there  
19 certainly is -- there are carriers that have reciprocal  
20 agreements.

21 **Q.** And again, you can do that without coordinating capacity  
22 with that other airline at the same time, right?

23 MR. WALL: Objection. The leading, it's just  
24 constant at this point, Your Honor.

25 THE COURT: Sustained as to the form.

1 BY MR. DAVIS:

2 Q. Is it necessary to have capacity coordination in order to  
3 have a reciprocal frequent flyer plan agreement?

4 A. No.

5 Q. All right. And is it necessary to have revenue sharing  
6 in order to have a reciprocal frequent flyer agreement?

7 A. No.

8 Q. Let's just look quickly at Defense Exhibit 489, which is  
9 that analysis of AA/B6 strategic partnership. And again,  
10 this is prepared by Spirit in August of 2020?

11 A. Yes.

12 Q. And turning to page 21, please, ending in 499. Would you  
13 just read the banner up there at the top, please, Mr. Kirby?

14 A. "The strategic partnership is likely to harm consumers."

15 Q. And then the sentence under it?

16 MR. WALL: Objection, Your Honor. This is a --  
17 there's no foundation that he has any idea at all about these  
18 facts and figures, the numbers, the claimed harms that are  
19 here.

20 MR. DAVIS: Your Honor, this is in evidence --

21 THE COURT: Overruled.

22 MR. DAVIS: Yeah. Thank you.

23 BY MR. DAVIS:

24 Q. Can you read that sentence, please, Mr. Kirby?

25 A. "A five percent fare benefit from the Advantage program

1 is likely. It would result in a \$383 million in higher costs  
2 for air travelers and increased fares would price 2.7 million  
3 origination and destination passengers out of the air travel  
4 market."

5 **Q.** All right. Let's go to page 22, the next page. And can  
6 you read the top there, please?

7 **A.** "Impact of higher fares on consumer prices."

8 **Q.** All right. And can you read the two sentences underneath  
9 the black line?

10 **A.** "Given JetBlue's recent fare trends, it is likely that  
11 the strategic partnership will increase fares in the range of  
12 5 percent or more. Each 1 percent increase will raise the  
13 cost to consumers by roughly 80 million annually."

14 **Q.** All right. And finally, page 23, ending in 501, what  
15 does that say at the top?

16 **A.** "Impact of higher fares on consumer demand."

17 **Q.** And can you read the sentence under the bar, the two  
18 sentences?

19 **A.** "As prices increase, more passengers will be priced out  
20 of the market. For each 1 percent increase in price,  
21 slightly more than half a million travelers will be lost; the  
22 impact of the strategic partnership will negatively impact  
23 over 2.5 million."

24 **Q.** And so the bottom bullet, finally, Mr. Kirby, would you  
25 read that, please?

1     **A.** "The displaced demand of higher fares would normally  
2     present an opportunity for more efficient competitors to  
3     enter the market and satisfy that demand. But congestion at  
4     these airports limit effective new entry."

5     **Q.** And as we've been talking about LaGuardia, JFK, Newark,  
6     and Boston are congested airports; is that fair?

7     **A.** Yes.

8     **Q.** So is --

9             THE COURT: Well, is Boston -- Boston is not slot  
10    controlled?

11            THE WITNESS: It is not, Your Honor, but it has  
12    very limited available capacity for growth.

13    BY MR. DAVIS:

14    **Q.** All right. So Mr. Kirby, is an expanded frequent flyer  
15    plan benefit to consumers, does that come without cost?

16    **A.** Typically, there is a cost associated. I do recall, I  
17    think it was a few earnings calls ago, that JetBlue mentioned  
18    that they -- increase that they showed in their cost for that  
19    quarter was associated with divestments made for the NEA.

20            MR. DAVIS: No further questions. Thank you.

21            THE COURT: Any recross?

22            MR. WALL: Just a couple of things.

23    **RECROSS-EXAMINATION BY COUNSEL FOR PLAINTIFF AMERICAN AIRLINES**

24    BY MR. WALL:

25    **Q.** Just a clarification. In the questioning about waivers,

1 you made a passing reference to the MAX, do you want to tell  
2 the Court what the MAX waivers were about?

3 **A.** Sure. The 737 is a Boeing aircraft. The 737 MAX, it had  
4 a couple of well publicized tragic accidents and that fleet  
5 was shut down. American was the one of the carriers that  
6 were receiving deliveries of the aircraft, and so because  
7 they weren't getting more aircraft, they used that as the  
8 reason that they could not operate the JFK capacity.

9 **Q.** American and Southwest were the largest US carriers that  
10 were presently flying the MAX at the time of those crashes,  
11 right?

12 **A.** Yes.

13 **Q.** So they had substantial parts of their fleets grounded by  
14 the FAA, right?

15 **A.** Well, the entire MAX fleet, right?

16 **Q.** Right. In fact, the MAX was essentially grounded  
17 worldwide through a combination of jurisdictions, right?

18 **A.** Yes.

19 **Q.** Okay. And the MAX waivers that you raised were strictly  
20 in reference to the fact that some carriers, including  
21 American, were reliant on MAX aircraft to meet their slot  
22 flying requirements, right?

23 **A.** I wouldn't say specifically the slot requirements, but  
24 let's say their growth ambitions. Because at the same time  
25 that American didn't operate those to capacity, they added



1 approximately 120 flights from Charlotte to Dallas. So they  
2 still could have shifted passing ground, but I would still  
3 say that's something that they didn't plan on and they didn't  
4 receive.

5 **Q.** Right. And in all events, there's no question that that  
6 was the rationale for the waivers was the grounding of the  
7 MAX fleet?

8 **A.** That was the basis for their ask. That's right.

9 **Q.** And that grounding ended up lasting quite a bit longer  
10 than anyone had originally expected, right?

11 **A.** Well, yeah, I think so. I would say that's fair.

12 **Q.** And as a result of that, the waivers were extended on  
13 more than one occasion by the FAA, right?

14 **A.** What waivers?

15 **Q.** The slot waivers?

16 **A.** Well, no. What happened -- they were waived for one  
17 season for the MAX, for that situation. And then I think we  
18 talked about yesterday, the next season, my understanding was  
19 that American did not get a waiver for that subsequent  
20 season.

21 **Q.** You testified yesterday that there was an occasion in  
22 which American called up Spirit and tried to get it to cover  
23 some -- some slots at JFK, right?

24 **A.** Yeah, they asked us if we were interested for that  
25 subsequent season.

1     **Q.** Right. And that approach was related to dynamics around  
2     the -- around the MAX, as well, wasn't it?

3     **A.** I can't say that American's ambition was -- or their --  
4     the catalyst for that ask was the MAX, but it certainly could  
5     have been.

6     **Q.** Okay. One last point. Counsel shows you some of the  
7     advocacy that you put in around the potential effects of the  
8     NEA, and your most aggressive advocacy that you put in  
9     through this entire process, did you ever claim that the  
10    effect of the Northeast Alliance was going to be increase air  
11    fares by 30, 50, even 90 percent?

12    **A.** Not to my recollection.

13             MR. WALL: Thank you, sir. No more questions.

14             MR. DAVIS: No questions.

15             THE COURT: Thank you very much, Mr. Kirby. You're  
16    excused.

17             THE WITNESS: Thank you, Your Honor.

18             THE COURT: Who is the next witness?

19             MR. JONES: Your Honor, may I request a very brief  
20    break to check on our technology issues before the next  
21    witness?

22             THE COURT: Sure. Yeah. All right.

23             Who's going to -- just for the court reporter,  
24    who's going to examine the next witness. That will help her.

25             MR. JONES: The next witness will be examined by

1 Bonny Sweeney -- Ms. Sweeney is the person at the podium.

2 THE COURT: I'm beginning to think the DOJ has a  
3 bigger army than the defendants.

4 MR. JONES: Just deployed differently, Your Honor.

5 THE COURT: All right. We'll take a brief break.

6 (Court in recess at 10:27 a.m.

7 and reconvened at 10:41 a.m.)

8 THE WITNESS: The United State District Court for  
9 the District of Massachusetts is now in session, then  
10 Honorable Leo T. Sorokin --

11 THE COURT: Please be seated.

12 I understand you're ready with defendants'  
13 assistance.

14 MR. JONES: Yes, sir.

15 And plaintiffs call Mr. Vasu Raja of  
16 American Airlines.

17 THE COURT: All right.

18 MR. JONES: And Ms. Sweeney will be conducting the  
19 examination.

20 THE COURT: Great. If you come forward, and just  
21 remain standing in the witness box, for Ms. Belmont to  
22 administer the oath.

23 (The witness was duly sworn.)

24 THE DEPUTY CLERK: Can you please state your name  
25 and spell your last name for the record.

1 THE WITNESS: Vasu Raja. My last name is spelled  
2 R-a-j-a.

3 THE DEPUTY CLERK: Thank you. You may be seated.

4 THE WITNESS: Sure.

5 THE COURT: Go ahead.

6 MS. SWEENEY: Good morning, Your Honor, Bonny  
7 Sweeney for the United States, representing the plaintiffs.

8 And Mr. Raja is the chief commercial officer for  
9 American Airlines, so we will be examining him as an adverse  
10 witness.

11 THE COURT: That's fine. Go ahead.

12 **VASU RAJA**

13 having been duly sworn, testified as follows:

14 **DIRECT EXAMINATION BY COUNSEL FOR PLAINTIFF USA**

15 BY MS. SWEENEY:

16 **Q.** Some of them we'll have to look at in the binders because  
17 they are confidential. They have a lot of redactions. Or  
18 you may want to look at them on the screen, which will be  
19 easier for some of them.

20 So you currently serve as American Airlines chief  
21 commercial officer, correct?

22 **A.** Correct.

23 **Q.** And how long have you held that position?

24 **A.** Since roughly November of last year.

25 **Q.** And in that role, are you in charge of network planning?

1       **A.**    I am.

2       **Q.**    And that's for international and domestic?

3       **A.**    That's correct.

4       **Q.**    And how about alliances and partnerships?  What's your  
5       role with respect to alliances and relationships?

6       **A.**    That division reports to me, also.

7       **Q.**    And although you've only been in this position for a  
8       short time, since 2019, you have had responsibility for  
9       alliances and partnerships, correct?

10      **A.**    That is correct.

11      **Q.**    When you were vice president of strategy?

12      **A.**    SVP of strategy, but not to quibble, yes.

13      **Q.**    And you were also in charge of network planning; is that  
14      right?

15      **A.**    That's also true.

16      **Q.**    Okay.  And in 2019, did you have any particular  
17      initiatives that you were focusing on?

18      **A.**    Certainly.  Several.

19      **Q.**    And one of them was to grow American more aggressively?

20      **A.**    Absolutely.

21      **Q.**    And another one was to assess and evaluate American's  
22      alliances and partnerships; is that right?

23      **A.**    Also true.

24      **Q.**    Now, so you were senior vice president of strategy until  
25      June of 2020, right?

1       **A.** That's correct.

2       **Q.** And then at that time, you became the chief revenue  
3 officer?

4       **A.** That's correct.

5       **Q.** And you served in that role until you became the CCO of  
6 American, right?

7       **A.** Also true.

8       **Q.** And in all of those positions, you have had  
9 responsibility for network planning and for partnerships and  
10 alliances?

11       **A.** That's correct.

12       **Q.** Okay. So let me start by asking you some background  
13 questions about American Airlines. First of all, American  
14 has the largest network in the world; is that right?

15       **A.** That is true.

16       **Q.** Okay. And it serves around 370 destinations?

17       **A.** Off the top of my head, that sounds correct.

18       **Q.** It's got ten hubs?

19       **A.** Off the top of -- yes, yes. That's how we would count  
20 it, yes.

21       **Q.** And let's look at one of defendants' exhibits.

22               Mr. Klein, this is DX89.

23               This is a redacted exhibit which has already been  
24 admitted into evidence.

25               MR. WALL: I don't think it's in the binder, right?

1 THE COURT: It is.

2 MR. WALL: Oh, it is?

3 THE COURT: Near the back. Last one, I think.

4 MR. WALL: Okay. Thank you.

5 MS. SWEENEY: May we publish the redacted version,  
6 Your Honor?

7 THE COURT: Yes.

8 THE WITNESS: Okay. I'm there.

9 MR. KLEIN: Counsel, you said DX89?

10 MS. SWEENEY: DX89. Thank you very much.

11 BY MS. SWEENEY:

12 **Q.** So looking at the first page of that exhibit, Mr. Raja,  
13 or you can page through it if you like, but would you agree  
14 that this is a document, an exhibit consisting of an e-mail,  
15 a cover e-mail, along with two slide decks?

16 **A.** Yes, I see the e-mail. I certainly see the one slide  
17 deck. Yes. Okay. Yeah, I see the two slide decks.

18 **Q.** And were these slide decks prepared for a board of  
19 directors meeting at American in July of 2021?

20 **A.** Yes.

21 **Q.** And you helped prepare those slides; is that right?

22 **A.** I did.

23 **Q.** And you also presented this material to the board of  
24 directors?

25 **A.** Also correct.

1     **Q.** Okay. So let's turn to slide 16 in DX89, and that would  
2     be DX89-8.

3             MS. SWEENEY: And can we show that slide? Thank  
4     you.

5     BY MS. SWEENEY:

6     **Q.** We can start with this one on the screen. This is DX-8.  
7     And this is a map, sort of, of the world, with American's  
8     hubs, its ASMs, and its ODs, right?

9     **A.** That's correct.

10    **Q.** Okay. And ASMs are available seat miles?

11    **A.** Correct.

12    **Q.** And ODs are origins and destinations?

13    **A.** That's correct, too.

14    **Q.** So this just confirms what you testified to a moment ago  
15    about the number of destinations served and the number of  
16    hubs, right?

17    **A.** Correct.

18    **Q.** Okay. So can we turn now to DX89-16. And this slide  
19    shows American's position in relationship with Delta, United,  
20    and Southwest, correct?

21    **A.** It does.

22    **Q.** On a number of dimensions?

23    **A.** True.

24    **Q.** And the first one is ASMs, right?

25    **A.** Yes.



1     **Q.** And the first one it shows that American has more ASMs  
2     than any of the other three big airlines, correct?

3     **A.** Correct.

4     **Q.** And the next column is seats. And here again, American  
5     has more seats than any of those other big airlines; is that  
6     right?

7     **A.** Correct.

8     **Q.** And how about origins and destinations? Does American  
9     have the most?

10    **A.** It does. Of note, this is also our domestic system only.  
11    It would look slightly different if you included  
12    international.

13    **Q.** Okay.

14    **A.** But the general directionality of it is the same.

15    **Q.** Okay. Thank you for that clarification. Let's turn to  
16    slide 18?

17                 THE COURT: What do the letters mean at the top?  
18    BM&K?

19    **A.** Billion, million, and thousand.

20                 THE COURT: Okay. Thank you.

21                 Go ahead.

22    BY MS. SWEENEY:

23    **Q.** Slide 18, can we please look at that one.

24                 Okay. And this slide refers to single carrier  
25    American Airlines origins and destinations, right?

1     **A.** That is correct.

2     **Q.** And what are single carrier destinations?

3     **A.** Those are ones where we operate the entirety of the  
4     itinerary. There's not a partner, like, for example, British  
5     Airways flying one leg of the itinerary.

6     **Q.** Okay. And here again, American Airlines has more single  
7     carrier ODs, origins and destinations, than United and Delta,  
8     correct?

9     **A.** That's correct.

10    **Q.** Okay. Now, would you agree that American has achieved  
11    its position as the largest global network in the world by  
12    entering into joint ventures with partners?

13    **A.** I'm sorry, will you say that last part again? I  
14    didn't --

15    **Q.** Sure. So you agree that American has the largest network  
16    in the world, right?

17    **A.** Yes.

18    **Q.** And it's achieved that position, in part through its  
19    partnerships and alliances, right?

20    **A.** In part, true.

21    **Q.** We can take the slide down, by the way.

22                 THE COURT: When you say the largest network, are  
23    you referring to the network as encompassing just what  
24    American flies or what American flies with its partners.

25                 THE WITNESS: That's an excellent question. When

1 we think of the network, we think of the network that we  
2 offer to our customers, what we call the market network, and  
3 that is, indeed, the biggest. We also offer, at least until  
4 COVID times, the largest operated network, which is what  
5 these slides have been showing. But when we think about our  
6 business commercially, really, it's the marketed business.

7 THE COURT: The market.

8 THE WITNESS: That's what a customer can actually  
9 buy.

10 THE COURT: But those slides are referring to what  
11 you operate, in the sense that they're American planes,  
12 American pilots.

13 THE WITNESS: Exactly. Because so much of this  
14 deck at the time was talking about this is what we can do as  
15 an operating carrier, which is American Airlines. This is  
16 what we can do, as we expand our aperture, think about this  
17 from the customer's perspective. As a marketing carrier,  
18 we're something much larger than that.

19 THE COURT: Okay. Thank you.

20 Go ahead.

21 MS. SWEENEY: Thank you, Your Honor.

22 BY MS. SWEENEY:

23 **Q.** So now you mentioned that part of what's helped you  
24 achieve that size is through partnerships, and this includes  
25 with international partners, correct?

1       **A.** That is correct.

2       **Q.** And also domestic partners?

3       **A.** Yes. For the time period of this, that would be true.

4       **Q.** Okay. And then in the last couple of years, American has  
5 entered into two domestic partnerships, correct?

6       **A.** True.

7       **Q.** And one was with Alaska, right?

8       **A.** That's correct.

9       **Q.** And the other is the Northeast Alliance with JetBlue?

10       **A.** Yes, correct.

11       **Q.** And you negotiated both of those agreements. Is that  
12 fair?

13       **A.** In large part. Yes, true.

14       **Q.** Okay. And the American/Alaska agreement is called the  
15 West Coast International Alliance, right?

16       **A.** That's right.

17       **Q.** And that was signed in 2020?

18       **A.** That's correct.

19       **Q.** Just like the NEA?

20       **A.** Yes. That's right.

21       **Q.** In the sense that they were both signed in 2020?

22       **A.** They were both signed in 2020, correct.

23       **Q.** All right. Thank you.

24                   Now, at American, you sometimes talk about  
25 inorganic growth as compared to organic growth, right?

1     **A.** True.

2     **Q.** And organic growth is when American grows its network  
3 through its own flying, on its own planes, right?

4     **A.** Yeah. Not to be over-technical about it, but we think of  
5 it as organic is when we take the capital assets of  
6 American Airlines and we devote it to buying airplanes and  
7 real estate and growing. Inorganic is through a partnership  
8 we can sell something bigger to the customer.

9     **Q.** So when you're working through a partnership and you're  
10 growing your network through the partnership, then you don't  
11 have to invest those capital resources. Is that it?

12     **A.** No, not necessarily. Indeed, what we say very often is  
13 partnership means growth for us. The point of the  
14 partnership is there's some things that we just can't  
15 credibly do, from a regulatory standpoint we can't fly it.  
16 And in other cases, it's just not profitable for us. There's  
17 not infrastructure available. But the beauty of the  
18 partnership is that they facilitate the growth. Almost every  
19 partnership that we've had, we've actually used it to go  
20 drive more growth.

21     **Q.** Now, let me focus on something that you said there. But  
22 it's true, isn't it, that when you're growing the network  
23 through inorganic growth, you're using someone else's plane,  
24 right?

25     **A.** Yeah. Sure.

1 Q. Yeah. So you don't have to purchase those planes and fly  
2 those routes yourself, right?

3 A. No. If, for example, you mean that there are partnership  
4 with British Airways, they have an airplane that flies from  
5 London to Geneva, we don't need to purchase that airplane.  
6 That's very true.

7 Q. Now, inorganic growth is sometimes called synthetic  
8 growth, right?

9 A. Yeah, sometimes we've used that word, too.

10 Q. And sometimes you've used the expressions "build and  
11 borrow"?

12 A. Yes. Yeah. Yes, we've used that, too.

13 Q. Build versus borrow, I should say, right?

14 A. Correct.

15 Q. And "build" means organic growth, correct?

16 A. That's right.

17 Q. And "borrow" means inorganic growth?

18 A. Correct.

19 Q. Let's turn to another slide in that same deck. This is  
20 DX89. I think it might be DX89-C. It's at the very end of  
21 the deck. It's the second deck, actually. And if we could  
22 turn to slide 5 in this second deck.

23 Let me know when you're there, Mr. Raja.

24 A. I'm there.

25 Q. And again, this second deck was something that -- it was

1 a summary that was circulated to upper management in  
2 connection with that July 2021 board of directors meeting,  
3 correct?

4 **A.** Yes. True.

5 **Q.** So this was after you guys entered into the NEA?

6 **A.** Correct.

7 **Q.** So let's focus about halfway down the page. There are  
8 two little pictures on the left-hand side, and they're kind  
9 of hard to see.

10 MS. SWEENEY: If you could just expand that middle  
11 area there.

12 BY MS. SWEENEY:

13 **Q.** Do you see where there's a little picture of a wrench,  
14 and next to it the words "Build"?

15 **A.** Indeed.

16 **Q.** So that's what we've just been talking about, building  
17 means growing capacity organically, as opposed to  
18 inorganically, correct?

19 **A.** Correct.

20 **Q.** And then below that, it says "Borrow," and it says -- and  
21 there's also a picture of a handshake, right?

22 **A.** Correct.

23 **Q.** And it says, "Develop mutually beneficial partnerships  
24 via actions ranging from codeshare agreements to equity  
25 partnerships resulting in varying levels of influence. For

1 example, innovative partnerships with Alaska and JetBlue."

2 Did I read that correctly?

3 **A.** Yes.

4 **Q.** So through the Northeast Alliance, American has grown its  
5 network by borrowing, right?

6 **A.** Yes, we have.

7 **Q.** Now, I'd like to ask you about one of the phrases in this  
8 second section here, under Borrow. It says, "Resulting in  
9 varying levels of influence." So that means that you can  
10 have a partnership with another airline that is -- that  
11 contains more or less entanglement between the two airlines,  
12 correct?

13 **A.** That's true.

14 **Q.** And so, for example, there is something  
15 called, "interline"; is that right?

16 **A.** That's correct.

17 **Q.** And would you describe that as a minimal amount of  
18 entanglement between the two airlines?

19 **A.** Yes.

20 **Q.** And what is interlining?

21 **A.** Effectively, interlining is really so that you can sell  
22 an itinerary from one operating carrier, call it  
23 American Airlines, to another operating carrier, whomever it  
24 might be, Delta Air Lines, British Airways, anybody. It's  
25 primarily there to facilitate operational issues. A flight



1 stranded somewhere, you can go and rebook a customer on  
2 someone else.

3 **Q.** So if there's a flight cancellation, American can put  
4 that passenger on somebody else's flight. Is that it?

5 **A.** Correct.

6 **Q.** And American has a lot of interline agreements with other  
7 airlines, right?

8 **A.** True. Including many of our domestic competitors. So,  
9 for example, with the hurricane that's going on in Florida,  
10 every airline in Florida is rebooking customers on one  
11 another, and the interline facilitates that.

12 THE COURT: The interline.

13 THE WITNESS: The interline.

14 THE COURT: And would interlining lead to --  
15 suppose American flies from Houston to Santiago, Chile, and  
16 somebody wants to go to a further destination in Chile that  
17 you don't fly to. Would interlining let you book them all  
18 the way through on some local airline that might go to that  
19 destination, if there's no other partnership?

20 THE WITNESS: No. This is where the technical  
21 limitations leave off. So you need to tell me if I'm getting  
22 too technical here. But if what you're saying is could we  
23 sell somebody flying Houston to Santiago on United Airlines  
24 and then they connect on LATAM, Santiago to Patagonia, no.

25 THE COURT: If the first leg were on American,

1 could you sell them -- like American, if you --

2 THE WITNESS: Oh, if we flew. Yeah. Dallas,  
3 Santiago, yes, interline could do it, so long as we had an  
4 interline relationship that's there.

5 And then another case is, too, well, the interline,  
6 of course, is not free. We have to go and pay for the space.  
7 So in a number of case, we have what we call "operational  
8 interlines," which are primarily there if situations like  
9 Hurricane Ian happened. But they're really expensive to both  
10 carriers, so it may not be commercially viable for us to sell  
11 it.

12 THE COURT: Okay. Go ahead.

13 MS. SWEENEY: Thank you.

14 BY MS. SWEENEY:

15 Q. Mr. Raja, another option for collaborations with other  
16 airlines is through codeshare, correct?

17 A. True.

18 Q. And codeshare means that you can market your flight and  
19 then that passenger can fly it on another airline, right?

20 A. That is correct.

21 Q. And it's often reciprocal, correct?

22 A. It can be and it can't be, but, yes, usually it is.

23 Q. Okay. And you can have a codeshare agreement without a  
24 revenue sharing, right?

25 A. True.

1     **Q.** And you can have a codeshare agreement without capacity  
2     planning, right?

3     **A.** Absolutely.

4     **Q.** And in fact, American had a codeshare agreement with  
5     Alaska Airlines, correct?

6     **A.** We did.

7     **Q.** All right. And that -- and I'm speaking of the preWCIA  
8     period, and that codeshare agreement didn't come along with  
9     any revenue sharing, right?

10    **A.** True.

11    **Q.** And didn't come along with any -- any coordination of  
12    capacity, right?

13    **A.** True.

14    **Q.** Okay. And then you can also have relationships with  
15    other airlines that includes both a codeshare and a frequent  
16    flyer benefit, right?

17    **A.** That's true.

18    **Q.** And, in fact, prior to, I think, late 2019,  
19    American Airlines and Alaska had such a relationship, right?

20    **A.** That's true.

21    **Q.** So you had both a codeshare agreement, which allowed  
22    passengers to purchase on one airline and fly the other,  
23    right?

24    **A.** Correct.

25    **Q.** And you had a -- excuse me, reciprocal frequent flyer

1 benefit, right?

2 **A.** True.

3 **Q.** Okay. And again, this was preWCIA, so there was no  
4 revenue sharing, no capacity coordination?

5 **A.** Correct.

6 **Q.** Okay.

7 THE COURT: When you say reciprocal frequent flyer  
8 benefit, you mean that not only could someone fly on a flight  
9 operated by one of the airlines, but get frequent flyer  
10 credit on the other airlines' program.

11 THE WITNESS: That's correct.

12 THE COURT: But also they could use their frequent  
13 flyer points on either program to buy a trip on the other  
14 airlines.

15 THE WITNESS: Yeah. We call it redemption. That's  
16 correct. That's right.

17 THE COURT: Thank you.

18 BY MS. SWEENEY:

19 **Q.** So I think of it as a continuum, would you agree with me  
20 that the first option we talked about, interline, includes  
21 less collaboration than codeshare?

22 **A.** True.

23 **Q.** And codeshare is less a collaboration than codeshare plus  
24 frequent flyer benefits?

25 **A.** This isn't to parse the word "collaboration." It's --

1 for the customer, you get a lot more out of codeshare plus  
2 frequent flyer, because you can earn frequent flyer benefits,  
3 but it's a technical thing. In fact, very often if we do  
4 codeshare, we do frequent flyer, because so much of the value  
5 of codeshare is to enable frequent flyer. I'm not trying to  
6 parse the words.

7 **Q.** No, that's helpful. Thank you. And then sort of at the  
8 other end of the continuum, you have something called joint  
9 business agreements, right?

10 **A.** True.

11 **Q.** And those are agreements with international carriers?

12 **A.** Yeah, that's right. I don't -- I don't know if I'd call  
13 it a continuum, because I don't know what the continuity is,  
14 but another tool for partnership is, indeed, joint venture.

15 **Q.** Okay. And those joint ventures, and we're talking about  
16 the international arena now, those -- well, first let me ask  
17 you, do you have some of these joint business arrangements  
18 now?

19 **A.** Indeed.

20 **Q.** And with whom?

21 **A.** As of today, IAG Group, the owner of British Airways,  
22 Qantas, JAL.

23 **Q.** What was the last one?

24 THE COURT: What was the last one?

25 THE WITNESS: JAL, Japan Airlines.

1 BY MS. SWEENEY:

2 Q. And these agreements require approval by regulatory  
3 authorities, right?

4 A. True.

5 Q. And that's called antitrust immunity?

6 A. Yes.

7 Q. And each of these three joint business arrangements that  
8 you just identified, they all have antitrust immunities; is  
9 that right?

10 A. They do.

11 Q. Okay. And then so would you agree that the Northeast  
12 Alliance is situated somewhere above codeshare plus frequent  
13 flyer benefits and the joint business arrangements?

14 A. Yeah, it -- I don't know where you're locating the word  
15 "above," but yeah --

16 Q. Between would be better. I'm sorry to interrupt you, but  
17 I think I misspoke. Would you situate that agreement between  
18 a relationship that involved codeshare plus frequent flyer  
19 benefits and one that involved antitrust immunity?

20 A. Yeah, look, for us, the value of it is much greater,  
21 because we can do so much more for the customer, because we  
22 can coordinate schedules and things like that. But it  
23 doesn't mean that every partnership is optimized if we deploy  
24 it as a JV or as the kind of partnership that we have with  
25 JetBlue.

1     **Q.** I'm not sure my question was very clear. So what I'm  
2     getting at is the arrangement that American now has with  
3     JetBlue requires a lot more collaboration and coordination  
4     than a simple codeshare plus --

5     **A.** That's true.

6     **Q.** -- frequent flyer benefit, right?

7     **A.** That's true.

8     **Q.** Now, would you agree that one of American's objectives in  
9     entering into these partnerships is to create value without  
10    deploying American metal?

11    **A.** Yes, in some cases, because we really can't, but yes.

12    **Q.** And by metal, that means aircraft, right?

13    **A.** Yeah.

14    **Q.** Okay. And let's turn to -- I'm still in the second deck  
15    of DX 89, if we could turn to slide 9, which is very near the  
16    end. Thank you.

17                 And I just want to refer you to the top of the  
18    page, there's a bunch of arrows, and the third one down  
19    says, "Use partnerships to create value without deploying  
20    American Airlines metal," right?

21    **A.** Correct.

22    **Q.** Okay. Okay. Now I want to go back to the first deck in  
23    this exhibit and turn to slide 17. So this is DX 89-17.

24    **A.** Okay, I'm there.

25    **Q.** You there?

1     **A.**   Yeah.

2     **Q.**   Okay.  And at the top of the page, it says, "We classify  
3     our origins and destinations based on type of competition"  
4     right?

5     **A.**   True.

6     **Q.**   Okay.  And then if you look at the chart below, on the  
7     left hand side, it says, "OD type" and then below that it  
8     says, there are three rows, right, "American Airlines only,  
9     legacy only, and LCC/ULCC."  Right?

10    **A.**   True.

11    **Q.**   So does this reflect that American Airlines classifies  
12    competition based on who American is competing with?

13    **A.**   Yes.  Meaning that we separate network carriers like  
14    Delta and United from other carriers like Southwest or  
15    Spirit?  True.

16    **Q.**   Okay.  And so for example, "AA only" means there's no  
17    competition on that particular OD, right?

18    **A.**   Correct.

19    **Q.**   And if you look over at the right-hand side, there's a  
20    picture of American's symbol, right?

21    **A.**   That's right.

22    **Q.**   And legacy only means that American is only competing  
23    against United and/or Delta?

24    **A.**   True.

25    **Q.**   And then if you look at the right-hand side, there's



1 their symbols, right?

2 **A.** True.

3 **Q.** And LCC/ULCC, that would include JetBlue, correct?

4 **A.** Yes.

5 **Q.** And it also includes ultra low cost carriers like Spirit?

6 **A.** True.

7 **Q.** Okay. Now, let's turn two pages forward in this deck to  
8 slide 19. Okay. And this slide is about varying margins  
9 that are generated at American across different types of  
10 origins and destinations, right?

11 **A.** Yes. When we do margins -- and it's called indicative  
12 margin range and not to be too detailed about it, but we call  
13 it that because we tend -- we look at route profitability on  
14 a segment level, and so there's a little bit of estimation  
15 going on here, but that's correct --

16 **Q.** Understood.

17 **A.** -- directionally.

18 **Q.** And I'm not going to ask you just yet about indicative  
19 margin range, but I want to focus on the left-hand column  
20 where it's talking about yield. Do you see that?

21 **A.** I do.

22 **Q.** And this is for the third quarter of 2019, right?

23 **A.** Correct.

24 **Q.** And cents/R PM. What does that refer to?

25 **A.** It's cents per revenue passenger mile, it's a means of

1       gauging how much a customer paid for the seat.

2       **Q.**   Okay. And then if you look at the different types of --

3               THE COURT: Per revenue mile?

4               THE WITNESS: I'm sorry. Say that again, Judge?

5               THE COURT: You said per revenue mile?

6               THE WITNESS: Revenue passenger mile. So it's --  
7       maybe the simplest way to think of it is like a metric like  
8       average ticket value, where we just take revenue and divide  
9       it over passengers. We at the airlines tend to look at it as  
10      our passenger miles because, you know, if you fly from  
11      Charlotte to --

12              THE COURT: So why does the bottom include -- if  
13      the top is cents, cents is the amount of like cents per each  
14      passenger mile, what's the revenue mean in the bottom?

15              THE WITNESS: The revenue in RPM?

16              THE COURT: Yes.

17              THE WITNESS: Is just somebody who actually  
18      purchased a seat.

19              THE COURT: Oh, as opposed to somebody who's flying  
20      for free.

21              THE WITNESS: Yeah, as opposed to the other metric  
22      we'll use, which is cents per ASM, RASM, revenue over all the  
23      available seats, but the mileage thing is important because,  
24      you know, we'll fly a flight 150 miles and a flight 1500  
25      miles and it's a means of being able to equate that.

1 THE COURT: Sure. Okay. Go ahead. Thank you.

2 BY MS. SWEENEY:

3 Q. And the -- on the screen, the numbers are blacked out,  
4 but would you agree that --

5 THE COURT: I'm sorry, so this bakes in a little  
6 bit the yield. In other words, if you have planes that are  
7 always 100 percent full, your cents per revenue -- you don't  
8 have that many people flying for free.

9 MS. RIGGS: Correct.

10 THE COURT: So those days are over when you work  
11 for the airline, you get to fly for free, right?

12 THE WITNESS: You still can, but the planes are  
13 more full than they once were, which is actually a good  
14 thing.

15 THE COURT: But if the planes were at half load,  
16 then that's going to effect this equation, because -- or it's  
17 going to -- as compared to the ASMs.

18 THE WITNESS: Yeah. Exactly. This is the RASM  
19 calculation, so if you take this yield times what you just  
20 said was load factor, so you're flying a 50 percent load  
21 factor, so and -- you would half that number. If you were  
22 100 percent, then that would be your RASM. Exactly right.

23 THE COURT: Okay. Got it.

24 BY MS. SWEENEY:

25 Q. So looking at that first column there under "AA yield."

1 You can see that American earns the highest yield on  
2 American Airlines only flights, right?

3 **A.** True.

4 **Q.** And those are flights where American faces no  
5 competition, correct?

6 **A.** Yes.

7 **Q.** And the second highest yield is from legacy only routes,  
8 right?

9 **A.** Correct. And this isn't to quibble, but these aren't  
10 looking at segment route; these are origin and destinations.

11 **Q.** Thank you very much. Yes.

12 THE COURT: What's the difference?

13 THE WITNESS: So an AA only route are truly things  
14 that are only constructed by us. Every network carrier has  
15 them. And it would be New Bern, North Carolina, to  
16 Knoxville, Tennessee. We're the only ones who fly there.  
17 Stillwater, Oklahoma, to São Paulo. We're the only ones who  
18 go and connect it, because one of those two things we're the  
19 only ones that fly.

20 And that's a unique thing that exists for network  
21 airlines, because we drive connection. Legacy only are  
22 markets where one or both of our principal network  
23 competitors offer it, too. So think Birmingham to  
24 Los Angeles.

25 THE COURT: So the first often have changes or

1 connections?

2 THE WITNESS: Correct.

3 THE COURT: The AA only.

4 THE WITNESS: The AA only is -- yes. All of these  
5 account for connections. And so even in markets like  
6 LCCU/LCC, a market like Orlando to Nashville, Southwest will  
7 fly that market. We don't fly it nonstop. But when we go to  
8 classify our O and Ds, Nashville to Charlotte to Orlando  
9 would be considered an LCC competitive O and D.

10 THE COURT: I see.

11 I'm sorry, go ahead.

12 So just so I get it right, though. So the segment  
13 is like Nashville to Charlotte, and the origin destination is  
14 Nashville to Orlando or whatever.

15 THE WITNESS: Exactly.

16 THE COURT: And these are segment numbers -- no,  
17 these are origin and destination numbers right here.

18 THE WITNESS: That's right. That's exactly right.  
19 So that's why, for this, the cents per RPM becomes really  
20 important, too, because we're taking the mileage over the  
21 entirety of that itinerary, Nashville to Orlando, with  
22 Charlotte in between. We take all the revenue over all the  
23 mileage that's there.

24 THE COURT: I see.

25 THE WITNESS: That's where I say, it's not quite --

1 the indicative margin range is, I believe, indicative for  
2 that.

3 BY MS. SWEENEY:

4 **Q.** Now, focusing on what you were just referencing with  
5 respect to the American Airlines only O and Ds, isn't it also  
6 true -- you talked about these segments that no other airline  
7 is in. But it's also true, isn't it, that you can have a  
8 nonstop route between an origin and a destination where there  
9 are more competitors than just American. And say there's two  
10 competitors in the market, if that second competitor leaves  
11 the market, then it becomes an AA-only O and D, correct?

12 **A.** I think so. Could you give me a for example? I think I  
13 follow you, but just so I --

14 **Q.** Sure. Let's say the Boston to LaGuardia route, if  
15 American Airlines was in that route; and JetBlue were in that  
16 route and JetBlue left that route, that would then become an  
17 American Airlines only route -- excuse me, O and D. I thank  
18 you for that correction.

19 **A.** Well, in that route, Delta and United are both in it.  
20 But as a core example, if there were only two carriers, yes.  
21 I'll follow your example. I'm sorry. Yes.

22 **Q.** That was a bad example.

23 **A.** No, no, I get you. I get you. All is fine.

24 **Q.** And again, so what this chart shows is that the O and Ds  
25 where American faces competition from LCCs and ULCCs have the

1 lowest yield, correct?

2 **A.** Correct.

3 **Q.** Okay. We can put that document aside. Now I'd like to  
4 turn to another topic, which is the role that you played in  
5 negotiating and implementing the Northeast Alliance.

6 So you were the lead point of contact at American  
7 in negotiating the Northeast Alliance with JetBlue; is that  
8 right?

9 **A.** True. I was.

10 **Q.** And you actually initiated the idea. Is that fair?

11 **A.** I did. That probably gives me a lot more credit than I  
12 deserve, but I'll take it, yes.

13 **Q.** And you started negotiations in January of 2020?

14 **A.** We did, yes.

15 **Q.** And those negotiations continued through the spring and  
16 summer, right?

17 **A.** Yes. Yes. I think they were largely concluded by the  
18 summer, but, yes.

19 **Q.** The agreement was signed in mid July; is that right?

20 **A.** True.

21 **Q.** And publically announced the day or so after it was  
22 signed, right?

23 **A.** That's right.

24 **Q.** And you continue to have a role in overseeing the NEA,  
25 right?

1       **A.** I do.

2       **Q.** And as part of that oversight role, you meet regularly  
3 with JetBlue executives?

4       **A.** True.

5       **Q.** In fact, you meet quite regularly with American's chief  
6 operating officer; is that right?

7       **A.** Well, I meet a lot with American's chief operating  
8 officer. He's six feet away from me.

9               But I meet with JetBlue's chief operating officer a  
10 lot, too.

11       **Q.** Okay. Thank you. So you meet a lot with JetBlue's chief  
12 operating officer?

13       **A.** Yeah.

14       **Q.** And how about other executives on JetBlue's team?

15       **A.** I meet with them regularly, too, but not the same  
16 frequency as I meet with her.

17       **Q.** Okay. Now, let's turn now to the features of the  
18 Northeast Alliance.

19               So to start with, the Northeast Alliance includes a  
20 reciprocal codeshare agreement, right?

21       **A.** Yes.

22       **Q.** And we've already talked about that a little bit. And  
23 that codeshare agreement applies to all domestic O and Ds?

24       **A.** As I recall it, no, not to all domestic O and Ds.

25       **Q.** Just those that arrive in or depart from the northeast



1 airlines -- I'm sorry, Northeast Alliance airports, right?

2 **A.** That is correct.

3 **Q.** Can we call those the NEA airports?

4 **A.** Sure.

5 **Q.** So that's what the codeshare covers, is all flights that  
6 touch those four airports, right?

7 **A.** Yes.

8 **Q.** Okay. And that includes?

9 THE COURT: So the codeshare doesn't cover American  
10 operations from Dallas, say, to South America or Europe?

11 THE WITNESS: Yeah, what it very much doesn't cover  
12 is, for example, Fort Lauderdale to Caribbean, where they're  
13 a competitor.

14 THE COURT: Right. Got it.

15 BY MS. SWEENEY:

16 **Q.** So the codesharing agreement also includes nonstop  
17 flights served by both JetBlue and American Airlines, right?

18 **A.** In those four airports that you're talking about,  
19 correct.

20 **Q.** Okay. So if a flight touches one of the four NEA  
21 airports, the codeshare is included even for those flights  
22 that are nonstop overlaps, right?

23 **A.** Correct.

24 **Q.** And when I say "nonstop overlaps," you understand me to  
25 mean a nonstop flight where there's overlapping service by

1 JetBlue and American, right?

2 **A.** Yes. For example, New York to Raleigh Durham. We both  
3 fly it, we both codeshare. If that's what you mean, then  
4 yes.

5 **Q.** And we already talked about this, but just to confirm,  
6 the NEA also includes a frequent flyer program benefit?

7 **A.** True.

8 **Q.** Okay. And it also includes a joint marketing agreement,  
9 right?

10 **A.** It does.

11 **Q.** And this enables JetBlue and American Airlines to jointly  
12 approach potential corporate customers, right?

13 **A.** Correct.

14 **Q.** And make joint bids to those customers; is that right?

15 **A.** Correct.

16 **Q.** Now, under the NEA, American and JetBlue coordinate on  
17 all aspects of network planning for domestic flights to and  
18 from the NEA airports, right?

19 **A.** I don't know if I would say all aspects of it, but we  
20 coordinate network planning, especially in the four NEA  
21 airports that you mentioned, yes.

22 THE COURT: Why especially, as opposed to only?

23 THE WITNESS: Well, I'm sorry, only in the four  
24 airports that are there. But sorry, I was thrown by all,  
25 because there's a lot of technical things that both network

1 planning teams work through that we don't coordinate on,  
2 maintenance routes and things like that. But we coordinate  
3 our schedule pattern and JFK to Raleigh and what kind of  
4 equipment we fly and things like that.

5 BY MS. SWEENEY:

6 **Q.** Okay. So why don't we break down coordination part. So  
7 there's really several pieces to it. Would you agree with  
8 that?

9 **A.** Yes, I would.

10 **Q.** Okay. And I think of it in terms of who, what, where,  
11 when, and how many. So let's start with who.

12 **A.** Okay.

13 **Q.** Okay. So to coordinate their flying in and out of the  
14 NEA airports, American and JetBlue discuss who will fly each  
15 route?

16 **A.** True.

17 **Q.** And for the what, the airlines also discuss what aircraft  
18 should be flown on which routes, correct?

19 **A.** We do.

20 **Q.** Okay. Another what. They also discuss what slots they  
21 will use in those airports that are slot constrained,  
22 correct?

23 **A.** Correct.

24 **Q.** And American and JetBlue also coordinate on what gates  
25 will be used, correct?

1       **A.** Yes. Correct.

2       **Q.** Okay. And the which is, and then they also coordinate on  
3       which aircraft will fly those routes, right?

4       **A.** Yes.

5       **Q.** Okay. And then they -- American Airlines and JetBlue  
6       also discuss how many flights they will fly to each origin  
7       and destination, right?

8       **A.** Yes. That's right. Each city pair.

9       **Q.** Each city pair. Thank you.

10               And would you agree that, under the NEA, American  
11       and JetBlue now coordinate on O and Ds where they previously  
12       competed?

13       **A.** Yes. In some cases. In many others, we've carved them  
14       out, too. I wouldn't say at large like that, but there are  
15       cases where that's true.

16       **Q.** Well, there are routes that -- for which American and  
17       JetBlue previously offered competing service, correct?

18       **A.** Yeah, that's true.

19       **Q.** And those routes, some of those routes are included under  
20       the NEA, right?

21       **A.** That's true, yeah.

22       **Q.** Now, the NEA also includes a revenue sharing agreement,  
23       right?

24       **A.** It does.

25       **Q.** And that's contained in the Mutual Growth Incentive

1 Agreement?

2 **A.** Correct.

3 **Q.** And can we refer to that as MGIA?

4 **A.** Yeah, we can. Sure.

5 **Q.** Okay. Now, the MGIA applies to all domestic routes,  
6 except a handful, correct?

7 **A.** That's true.

8 **Q.** And the handful are these so called care-out routes,  
9 correct?

10 **A.** That's correct.

11 THE COURT: When you say all domestic routes, all  
12 domestic routes in and out of the four.

13 THE WITNESS: Of the four, correct.

14 BY MS. SWEENEY:

15 **Q.** Now, so that includes, again, some routes on which  
16 American and JetBlue provide nonstop service, right?

17 **A.** That's right.

18 **Q.** These nonstop overlaps, correct?

19 **A.** Correct.

20 **Q.** And would you agree that the purpose of the revenue  
21 sharing agreement is to align American's and JetBlue's  
22 incentives?

23 **A.** Yeah, they are very much to align our incentives to get  
24 people away from Delta.

25 **Q.** And are you familiar with the expression "metal

1     neutrality"?

2     **A.**    I am.

3     **Q.**    Okay.  And what does that mean?

4     **A.**    For me, what metal neutrality means is that AA and  
5     JetBlue work together to go and get customers away from  
6     Delta.  It doesn't mean we're necessarily trying to be the  
7     same metal, though.

8     **Q.**    Metal neutrality means that American Airlines will be  
9     indifferent as to whether a passenger chooses JetBlue or  
10    American on those NEA routes?

11    **A.**    Yeah, certainly.  On a transactional basis, we want a  
12    transaction to come to us, not to Delta.  On the customer  
13    basis, the lens changes a little bit.  But you're right in  
14    what you're saying.

15    **Q.**    So it doesn't matter to you whether a customer flies on  
16    American or JetBlue, on a flight between Boston and New York  
17    City, right?

18    **A.**    Yeah, it's important to think of, now that you're asking,  
19    both in the transactional lens and the life of the customer.  
20    On the transaction, no, it doesn't.  We want the customer  
21    coming away from them to come to us.

22            THE COURT:  "Us" in that case being JetBlue and  
23    American.

24            THE WITNESS:  JetBlue and American.

25            But what we very much want is that the customer --

1 the value of doing that is that the customer keeps flying  
2 American Airlines, right? One of the things that we've seen  
3 on JFK-Tel-Aviv is a number of the customers who are on  
4 JFK-Tel-Aviv weren't our customers before. They were flying  
5 on JetBlue. They got introduced to American through them,  
6 and now they're flying us on JFK-Tel-Aviv. We want them  
7 transactionally to come away from delta on JFK-Raleigh, but  
8 we want the customer to go and fly American Airlines to  
9 Tel-Aviv.

10 BY MS. SWEENEY:

11 **Q.** So earlier you said it doesn't matter -- the agreement  
12 makes American Airlines and JetBlue indifferent to whether  
13 they fly American or JetBlue, and the reason that it doesn't  
14 matter is because your economic interests are aligned. Is  
15 that fair?

16 **A.** Yes, our economic interests are aligned. True.

17 **Q.** Now, does American Airlines have any other domestic  
18 airline alliance where you jointly plan daily schedules for  
19 nonstop overlaps?

20 **A.** No.

21 **Q.** And for example, there's an agreement between  
22 American Airlines and Alaska, which we referenced earlier,  
23 called the WCIA, right?

24 **A.** Correct.

25 **Q.** And that agreement does not have that provision, correct?

1       **A.** It does not.

2       **Q.** How about where two airlines coordinate on how many  
3 flights each will offer on overlap routes? Does American  
4 have any other domestic alliance where that occurs?

5       **A.** Not domestically, no.

6       **Q.** And that's not part of the Alaska/American WCIA, right?

7       **A.** No.

8       **Q.** And you said not domestically, because you were  
9 referencing these international agreements where there is  
10 antitrust immunity where that occurs, correct?

11       **A.** That's true.

12       **Q.** What about pooling of slots and gates? Does American  
13 have any domestic airline alliance in which airlines pool  
14 slots and gates and then jointly decide who's going to use  
15 them?

16       **A.** No, but it's not really necessary anywhere.

17       **Q.** That's not part of the WCIA with Alaska, is it?

18       **A.** No, it's not. It wouldn't need to be. There's no slots  
19 there.

20       **Q.** Oh. Correct. Thank you.

21                       How about gates?

22       **A.** Gates are there, but it's a little bit of a different  
23 situation there than what it is in the northeast.

24       **Q.** Got it. Okay. So how about deciding -- how about the  
25 joint decision about which domestic routes each airline will



1 fly? Do you have that in any other domestic partnership?

2 **A.** No.

3 **Q.** And it's not part of the WCIA, correct?

4 **A.** It is not.

5 **Q.** And how about coordination on what size airplane each  
6 will fly? Is that part of the WCIA?

7 **A.** It is not.

8 **Q.** How about reciprocal revenue sharing on overlap routes?  
9 Is that part of the WCIA?

10 **A.** Reciprocal revenue sharing on overlap routes is not part  
11 of the WCIA, no.

12 **Q.** Now, some of these provisions are contained in these  
13 immunized arrangements that American Airlines has with  
14 foreign partners, correct?

15 **A.** True.

16 **Q.** Okay. So one of the benefits to American and the  
17 Northeast Alliance is that it allows American to deploy  
18 airplanes to markets that have more value to American. You  
19 would agree with that?

20 **A.** Yes.

21 **Q.** And a high margin route is a high value route for  
22 American, right?

23 **A.** Typically speaking, yeah. If it's high in margins, it's  
24 high in value to us, yeah.

25 **Q.** Okay. Let's go back to DX89. And this is slide 19.

1 THE COURT: Is that what they're called, "gang of  
2 McKinseyites?"

3 THE WITNESS: That's what we call them sometimes.

4 THE COURT: Do they have markings?

5 THE WITNESS: Not that I've checked.

6 BY MS. SWEENEY:

7 Q. So let's look at slide 19 in this first deck, in this  
8 exhibit.

9 And we talked about this slide earlier, but now I  
10 want to focus on the column in the right-hand side. And this  
11 is "Indicative Margin Range" right?

12 A. Sure.

13 Q. And again, American generates the highest indicative  
14 margin on flights that only American Airlines flies, right?  
15 On O and Ds that only American flies?

16 A. Correct.

17 Q. And that's -- even -- you could see the numbers there,  
18 right? They're blacked out in the redacted version, but you  
19 can see them in the document, correct?

20 A. Indeed.

21 Q. And American earns the second highest indicative margin  
22 on legacy-only O and Ds, right?

23 A. True.

24 Q. And those are flights, again, where American faces  
25 competition, but only from United and/or Delta, right?

1       **A.** True.

2       **Q.** And American receives the lowest indicative margin on  
3 those flights where American faces competition by LCC or a  
4 ULCC, correct?

5       **A.** True.

6       **Q.** Okay. We can put this document away.

7                   Now I'd like to turn to the specific markets that  
8 are covered by the Northeast Alliance and start with Boston.  
9 So Boston is a -- a very important market in the domestic  
10 airline industry, would you agree with that?

11       **A.** I would.

12       **Q.** And it's an important market for American?

13       **A.** It is.

14       **Q.** In part because of its size and demographics?

15       **A.** True.

16       **Q.** And also in part because of its high percentage of  
17 business travelers?

18       **A.** Also true.

19       **Q.** So if American had not entered into the Northeast  
20 Alliance, it would continue to try to compete in Boston,  
21 right?

22       **A.** It would try to compete in Boston, whether it would be  
23 successful competing in Boston would be a different issue.

24       **Q.** And in 2019, American was planning to grow in Boston,  
25 right?

1       **A.** Yeah. That's right. We were going to add a few flights.

2       **Q.** Okay. Let's turn to Plaintiffs' Exhibit 66. Let me know  
3 when you've had a chance to look at that.

4       **A.** I'm on 66.

5       **Q.** Okay. This is an e-mail chain between you and Mr. Puech  
6 at American Airlines, right? In which he reported on  
7 highlights and schedule changes made that week by several  
8 airlines, right?

9       **A.** Correct.

10       **Q.** And he reported on schedule changes by Delta, United,  
11 Southwest, and JetBlue, right?

12       **A.** Correct.

13       **Q.** And Mr. Puech, at least at that time, was the director of  
14 domestic planning?

15       **A.** I don't know if he was the director of domestic planning  
16 or not then, but he, effectively, was coordinating our  
17 domestic planning function, sure.

18       **Q.** And this was in December of 2019, before the NEA, right?

19       **A.** True.

20       **Q.** Okay. Let's look at the bottom of the page, where there  
21 is a paragraph that starts with "B6." Do you see that?

22       **A.** I do.

23       **Q.** And Mr. Push writes, "B6, add an extra Austin-Boston."

24                       Do you see that?

25       **A.** I do.

1     **Q.** And that means that that week JetBlue added another  
2     Austin-Boston route?

3     **A.** Correct.

4     **Q.** And that was right around the time that American  
5     announced its new nonstop service between Boston and Austin?

6     **A.** That's right.

7     **Q.** So in this time period, in December of 2019, American and  
8     JetBlue were competing on that route, correct?

9     **A.** True.

10    **Q.** And then he goes on to say, in the second carat below  
11    B6, "added extra Boston frequency to a dozen of places  
12    including Chicago O'Hare, Charlotte, Phoenix, and LAX,"  
13    right?

14    **A.** Right.

15    **Q.** And this means that JetBlue added extra frequencies to  
16    all of those places, right?

17    **A.** That is correct.

18    **Q.** All of those airports?

19    **A.** Yup.

20    **Q.** And all of those airports that are indicated there, those  
21    are all American hubs, right?

22    **A.** True.

23    **Q.** So fair to say that, in this time period, December 2019,  
24    JetBlue and American were competing for service between  
25    cities -- between Boston, in particular, and American hub

1 cities?

2 **A.** Yeah, they were competing with us. I suspect that's  
3 probably in retaliation to us starting Austin-Boston, but  
4 yeah, that's fine. We were competing.

5 **Q.** We can put this exhibit aside and turn to, please,  
6 Plaintiffs' Exhibit 122. This is admitted into evidence, but  
7 it is redacted. So I request permission to display the  
8 confidential, redacted version.

9 THE COURT: Yes.

10 BY MS. SWEENEY:

11 **Q.** All right. Do you recognize this e-mail, Mr. Raja?

12 **A.** Indeed I do.

13 **Q.** Okay. This is an e-mail conversation between you and the  
14 vice chair of the American Pilots Association in Boston,  
15 correct?

16 **A.** Yes.

17 **Q.** And it's from late September of 2019?

18 **A.** That's right.

19 **Q.** So, again, before the NEA?

20 **A.** Correct.

21 **Q.** And in this e-mail, he is asking you about American's  
22 plans for growth in Boston, right?

23 **A.** Yes.

24 **Q.** Okay. And if you look at the bottom of the paragraph,  
25 the very bottom paragraph on this page, in the middle of

1 that, he says, "I am reaching out to you to find out when  
2 we're going to step up our game here in Boston. As you know,  
3 our gate utilization at just over three is not quite where we  
4 would like it to be, and our lone wide-bodied gate often sees  
5 a commuter on it going to Rochester, New York."

6 Do you see that?

7 **A.** I do.

8 **Q.** And so you respond the next day, right? So let's look up  
9 at the middle of the page to find your first response. And  
10 you say, "We are not done in Boston, we are going to kick ass  
11 globally, even if it kills me, including Boston." Did you  
12 say that?

13 **A.** I did.

14 **Q.** And then below that you say, "Don't take my word for it,  
15 when the metal comes then you take my word for it, but I  
16 don't BS about these thing, and I am done [expletive]  
17 around."

18 **A.** That is what it says. I was wondering if you would read  
19 all those words. You didn't redact that.

20 THE COURT: You can actually say those words in  
21 court, including to me.

22 MS. SWEENEY: Okay. Thank you, Your Honor.

23 BY MS. SWEENEY:

24 **Q.** Okay. Mr. Raja, other than the omission of the salty  
25 language, did I read that correctly?

1       **A.** Correct.

2       **Q.** Okay. So and then looking at the top, he thanks you for  
3 your response, and then you respond again, right? And so  
4 looking at the very top, you respond, "No doubt. In 2021, we  
5 can get more gates there and we plan to do it."

6               And so this is referring to getting more gates in  
7 Boston, right?

8       **A.** True.

9       **Q.** Because as vice chair the American Pilot's Association  
10 pointed out at that point in time, American was not fully  
11 utilizing its gates in Boston. Is that fair?

12       **A.** That's correct.

13       **Q.** And then you also go on to say, "In one hour, we will  
14 announce the return of flight 108/109, 777 200, Boston.  
15 London-Heathrow starts 2020."

16               And in fact, American Airlines did launch that  
17 flight to London-Heathrow, right?

18       **A.** Correct.

19       **Q.** So here you're expressing your intention both to get more  
20 gates, right?

21       **A.** Correct.

22       **Q.** And to utilize your gates more fully, right?

23       **A.** Also true.

24       **Q.** That's something that you said in this e-mail to -- and I  
25 can't say his name, but the vice chair of the American Pilots



1 Association?

2 **A.** Yeah.

3 **Q.** And you also referenced an intention to add service,  
4 right?

5 **A.** Yes.

6 **Q.** And then let's look at the last paragraph of your  
7 response. It starts, "It may take us a bit of time and a lot  
8 of change," and then you go on to say, "but we are going to  
9 fight like hell in Boston if I have anything to do with it."

10 **A.** Correct.

11 **Q.** Did I read that correctly?

12 **A.** Yes, you did.

13 **Q.** Okay. We can put this exhibit aside.

14 And then can we turn please to Plaintiffs'  
15 Exhibit 119. This is a document that's in evidence. And  
16 there are no redactions.

17 Now, this is an e-mail conversation that you had  
18 with someone at American Airlines in late 2019, just a couple  
19 months after you had that conversation with the APA vice  
20 chair, right?

21 **A.** Yes.

22 **Q.** And that was with Jim Butler, correct?

23 **A.** Yes.

24 **Q.** And he, at that time, was the senior vice president of  
25 airports?

1       **A.** That's right.

2       **Q.** And in this e-mail, Mr. Butler --

3               THE COURT: For American Airlines?

4               THE WITNESS: For American Airlines, yes.

5               MS. SWEENEY: Thank you, Your Honor.

6       BY MS. SWEENEY:

7       **Q.** In this e-mail, Mr. Butler is thinking about how to  
8       structure his team and wants to understand American's plans  
9       for growth in the northeast, correct?

10      **A.** Correct.

11      **Q.** Okay. And you respond to Mr. Butler on December 1?

12      **A.** I do.

13      **Q.** And you have several responses. You talk about New York  
14      first and JFK and then LaGuardia, and then you talk about  
15      Boston. I want to focus for the moment on Boston.

16      **A.** Sure.

17      **Q.** And you write, "Boston is and will be the largest nonhub  
18      mainline operation."

19      **A.** Yes, it says that. I wrote that.

20      **Q.** And "mainline operation," that refers to a situation  
21      where you're flying American planes as opposed to planes of  
22      regional carriers with whom you have an agreement?

23      **A.** Yeah. Technically. Any of our jets with more than 100  
24      seats are mainline; anything less are regional.

25      **Q.** Okay. So here you're expressing that it's going to be

1 the largest nonhub operation where you're flying the big  
2 jets, correct?

3 **A.** Yes.

4 **Q.** And you go on to say, "So much so I don't know why we  
5 call New York City a hub, but not Boston." Did I read that  
6 correctly?

7 **A.** You do. Or you did.

8 **Q.** And then you go on to say, "Assume we are at least 120  
9 daily flights from 2025, up from 90 or so today," right?

10 **A.** Yes.

11 **Q.** And so that reflected your understanding at the time,  
12 correct?

13 **A.** It reflects my understanding.

14 A really important thing, though, is actually part  
15 of the New York thing. Butler in this is trying to staff his  
16 team. We're having -- outside of this, we're having a long  
17 conversation about this, because operationally, in New York,  
18 the size on a departure basis is similar to Boston. Now, in  
19 the weird world of how we go and build our airport staffing,  
20 whether you call something a hub denotes the titles of the  
21 people who are there, which is on his mind.

22 What I'm trying to convey to him in this is, look,  
23 in New York, it's a relatively -- though there's a similar  
24 level of departures, there's a lot less going on in New York  
25 at this point in time, than what's going to be going on in

1 Boston. You have to get somebody who is a lot better than  
2 what we've historically had in Boston.

3 **Q.** Mr. Raja, I'm not sure you that you understood my  
4 question, which simply asks for a yes or no answer.

5 **A.** I'm sorry.

6 **Q.** I'm asking whether what you say here in this e-mail to  
7 your colleague, who is senior vice president of airports, I  
8 guess --

9 **A.** Yes.

10 **Q.** -- you say, "Assume we are at least 120 daily flights by  
11 2025, up from 90 or so today."

12 **A.** Yes, I did say that.

13 **Q.** And my question is, that reflected your understanding at  
14 the time; is that correct?

15 **A.** Correct. And for purposes of him preparing the  
16 staffing -- like this is a -- we call this our max output  
17 schedule, and yes, that was my -- certainly the understanding  
18 that I wish to convey.

19 **Q.** Okay. We can put this exhibit aside.

20 And can we have a look at Plaintiffs' Exhibit 65,  
21 which is in evidence, and does not contain any redactions.

22 Okay. This is an early January 2020 e-mail chain,  
23 that starts with an e-mail from Jhonatan Ma teus to you,  
24 correct?

25 **A.** Correct.

1       **Q.** And looking about two-thirds of the way down the page,  
2 he's writing about the rationale for point-to-point additions  
3 for 2020, correct?

4               THE COURT: I'm sorry, what date was this? I just  
5 missed that. The e-mail.

6 BY MS. SWEENEY:

7       **Q.** This is from early January, Mr. Raja?

8       **A.** Correct.

9               THE COURT: 2020.

10              THE WITNESS: 2020.

11              THE COURT: Thank you.

12 BY MS. SWEENEY:

13       **Q.** Am I right that Mr. Mateus, at least at that time, was a  
14 manager of the team responsible for fleet and infrastructure  
15 strategy?

16       **A.** That's true.

17       **Q.** And he reported to Massimo Mancini, correct?

18       **A.** He did.

19       **Q.** And Mr. Mancini, during this time period, reported  
20 directly to you, right?

21       **A.** Yes.

22       **Q.** And let's look at the next-to-last bullet point on the  
23 bottom of the page. Do you see that?

24       **A.** Yes.

25       **Q.** It starts with Boston?

1       **A.** Yes.

2       **Q.** "Planning on going from 96 to 104 peak day departures by  
3 summer of 2020, to start incremental growth towards a 2024  
4 peak date departures around 140."

5               Do you see that?

6       **A.** I do.

7       **Q.** So at this point in time, before the NEA, American had  
8 plans to increase its Boston peak day departures from 96 to  
9 at least 104, correct?

10      **A.** Correct.

11      **Q.** And it's true, also, that at this point in time, preNEA,  
12 American's goal or aspiration was to increase peak day  
13 departures in Boston to around 140, correct?

14      **A.** Aspiration is a good characterization, yes.

15      **Q.** That was the intention expressed in this document,  
16 correct?

17      **A.** Yeah. That was exactly the aspiration expressed.

18      **Q.** Okay. And then Mr. Mateus goes on in that same  
19 paragraph, "tentative adds are Austin 2, Raleigh-Durham 4,  
20 Indianapolis 2." Right?

21      **A.** Correct.

22      **Q.** And what he's saying there is that American, at this  
23 point in time, January 2020, is planning on adding two daily  
24 flights from Boston to Austin, right?

25      **A.** Yes.

1 Q. And four daily flights between Boston and Raleigh-Durham.

2 A. Also correct.

3 Q. And two daily flights between Boston and Indianapolis?

4 A. That's right.

5 Q. And then Mr. Mateus goes on in that same paragraph to  
6 talk about American's underutilization of its gates in  
7 Boston, correct?

8 A. Yes.

9 Q. Okay. And he says, "We need to get to that level of  
10 departures, because our utilization lags that of our  
11 competitors. In 2021, '22, we need to have a high gate  
12 utilization to try to claim the three Air Canada gates" -- is  
13 that what AC stands for there?

14 A. It is.

15 Q. "To claim the three air Canada gates. Also in 2023, when  
16 our lease expires, we will be at risk of losing more gates if  
17 we do not have a good utilization."

18 Now, let me stop there for a second. So at this  
19 time, American Airlines was aiming to get three additional  
20 gates in Boston, right?

21 A. We were -- this was part of the aspiration, there's three  
22 things going on. We needed to go drive more utilization on  
23 what we have, and then by doing so, to enter the pool for the  
24 three Air Canada gates.

25 Q. Okay. So you were going to enter the pool for the three

1 Air Canada gates; is that right?

2 **A.** We hadn't yet. This is -- like I said, the important  
3 thing is this is an aspirational sense, like the whole  
4 context of this e-mail is he's trying to build a rationale  
5 around doing more of what we call point to point flying,  
6 flying that doesn't touch one of our hubs.

7 **Q.** And so -- and he also says, "if we do not have good  
8 utilization." So American Airlines was not fully utilizing  
9 its gates in Boston at the time; is that right?

10 **A.** We were not.

11 **Q.** Okay. And then he goes on to say, "We already lost four  
12 gates in recent years. We went from 22 to 19. In 2019, we  
13 had less than five departures per gate."

14 Correct?

15 **A.** Yes. 22 to 18, but yes. You're right. That's right.

16 **Q.** Okay. And so -- and five departures per gate is not  
17 fully utilizing that gate, right?

18 **A.** Sort of. It depends on what airport you're in. In  
19 Boston, utilization is measured relative to how other people  
20 are using the gates. That's why the next sentence is there.  
21 If other people are utilizing it more, than whoever utilizes  
22 the gates the most, gets the gates.

23 **Q.** And in Boston, is it fair to say that there are gate  
24 utilization requirements?

25 **A.** True, there are.



1     **Q.** And so if you don't utilize your gates, you can lose  
2     them, right?

3     **A.** Absolutely.

4     **Q.** And we can put this exhibit aside. Let's turn now to  
5     Plaintiffs' Exhibit --

6             THE COURT: Is that not true at other airports?

7             THE WITNESS: I'm sorry.

8             THE COURT: Is that not true at other airports?

9             THE WITNESS: It depends on the airport. So some  
10     airports have an abundance of real estate, and the gate  
11     utilization requirements are very, very low. Others have a  
12     high degree, but one carrier uses a lot of the gates. Think  
13     Atlanta. And then there's a lot of markets and there's an  
14     increasing number of them, like Boston, where the number of  
15     gates is restricted, and as you can see from the airport, you  
16     can't easily go and build more. And in those cities, there's  
17     usually a utilization metric, where you have to use the  
18     gates -- it's measured against everybody who's otherwise  
19     using the gates. So the people who use the gate the most get  
20     the capacity.

21             Where it becomes a really important thing for us,  
22     though, is -- and indeed what part of the rationale in Boston  
23     at this time is that we saw this happen to us in New York.  
24     In our business, when you lose access to the infrastructure,  
25     you lose the access. It's hard oftentimes to make more

1 gates, more runway, and even if you can do that, you can't  
2 make more air space. So in New York, overtime, because we  
3 weren't --

4 THE COURT: Airspace is different than slots?

5 THE WITNESS: Yeah, but they serve a similar thing.  
6 Effectively, it's different choke points on the same thing,  
7 right? The first thing is gate capacity, how much physical  
8 airplanes you can hang on things. Slots are really designed  
9 to measure airspace capacity, the number of takeoffs and  
10 landings that you can do. But depending on your airports,  
11 either or both can be an issue. In the New York City  
12 airports, both are an issue. In Boston, gates are the issue.

13 THE COURT: In New York, do they do the  
14 prioritization of the gates the way they do here?

15 THE WITNESS: Not necessarily. New York -- nothing  
16 is particularly straightforward. In LaGuardia, it's  
17 allocated. In -- Newark has a different mechanism. JFK is a  
18 completely unique airport where the different terminals are  
19 actually owned by either the carriers or the consortia who  
20 operate out of there.

21 THE COURT: But airspace is not -- with a slot,  
22 there isn't another choke point of airspace separate from the  
23 slot. If you have a slot and you can get the plane off the  
24 ground, assuming you can get people on and off at the gate,  
25 you're good to go.

1 THE WITNESS: That's correct. Certainly for  
2 commercial aviation, that's correct.

3 THE COURT: Okay. Go ahead. Thank you.  
4 BY MS. SWEENEY:

5 Q. Let's turn now to Plaintiffs' Exhibit 64. This  
6 Exhibit is not in evidence, so please don't publish it.

7 THE COURT: Which one? What number?

8 MS. RIGGS: 64. So that's in your binder,  
9 Mr. Raja.

10 THE WITNESS: Yes.

11 BY MS. SWEENEY:

12 Q. This is an e-mail exchange that you had on January 18,  
13 2020, right?

14 A. It is.

15 MR. WALL: Your Honor, we don't have any problem  
16 with this going into evidence and being displayed.

17 MS. SWEENEY: Okay.

18 MR. WALL: This is actually a document that we  
19 talked about in court today.

20 MS. SWEENEY: I just want to ask one question of  
21 the Court. I move to admit it into evidence.

22 THE COURT: Allowed. Admitted.

23 (Plaintiff Exhibit No. 64 admitted into evidence.)

24 MS. SWEENEY: Because defendants had previously  
25 objected, we don't have a redacted version. But there are

1 third-party names in this exhibit, so I'm not sure whether we  
2 should publish or not.

3 MR. PAIK: Your Honor, I believe the name here  
4 isn't necessarily a customer, so I think we had agreed that  
5 we don't actually need to redact this particular name here.  
6 So I think you should be able to publish it.

7 And this is Andrew Paik from Latham & Watkins.

8 THE COURT: Fine.

9 MS. SWEENEY: It's published.

10 THE COURT: And there's no phone number or  
11 anything, so it seems fine.

12 MS. SWEENEY: No, Your Honor.

13 THE COURT: Go ahead.

14 MR. WALL: There's a phone number on the second  
15 page, but I don't think she's going to be using --

16 THE COURT: Yes, getting to that page.

17 MS. SWEENEY: I am not.

18 BY MS. SWEENEY:

19 **Q.** Okay. So this is an e-mail chain between you and someone  
20 who has a business who wants to enter into kind of a  
21 marketing arrangement with American Airlines, right?

22 **A.** Yes.

23 **Q.** And he starts off the e-mail to you, and that's at the  
24 bottom of the first page of this exhibit, right?

25 **A.** That's right.

1 Q. And he's congratulating you on some -- American Airlines,  
2 on some new service, some new routes between Boston and a  
3 couple other cities, correct?

4 A. That's correct.

5 Q. And in fact, he's talking about three different cities  
6 where American Airlines had just announced new service  
7 between Boston and those cities?

8 A. That's right.

9 Q. And in your response, you thank him. And then you add  
10 Jim Carter, who leads American's sales and marketing efforts  
11 in Boston, right?

12 A. Correct.

13 Q. And you tell the author of this e-mail that Mr. Carter,  
14 because of his position, can respond, correct?

15 A. Yes.

16 Q. And then you have an e-mail exchange with Mr. Carter,  
17 correct?

18 A. Yes.

19 Q. And Mr. Carter writes -- and then I'm looking now at  
20 the -- near the top of the first page of the exhibit. And  
21 Mr. Carter, on January 18th, says, "Hey, man, I think I've  
22 gotten a dozen of these since the announcements. Working  
23 closely with our team in Boston on ensuring these flights  
24 work now."

25 Do you see that?

1       **A.** I do.

2       **Q.** So he's saying he's gotten a lot of inquiries since  
3 American Airlines announced those new routes from Boston,  
4 right?

5       **A.** True.

6       **Q.** Okay. And then your response is up there at the top.  
7 And you say, "Awesome. Gird your loins. Time to swing the  
8 bat in Boston."

9       **A.** Yes, I did write that.

10      **Q.** So that was my next question. Did I read that correctly?

11      **A.** Yeah.

12      **Q.** Okay.

13      **A.** I see you didn't redact that, either.

14                   Yes, I wrote that.

15      **Q.** Okay. We can set that exhibit aside.

16                   Let's turn now to New York, which is another part  
17 of the Northeast Alliance. And just like for Boston, New  
18 York is an important city for American Airlines, right?

19      **A.** It is.

20      **Q.** And probably the biggest city aviation-wise in the world?

21      **A.** Yes.

22      **Q.** Okay. And even if American had not entered into the  
23 Northeast Alliance, it would have continued to compete in New  
24 York?

25      **A.** Yeah. The effectiveness of its competition is a --

1 something that I would probably take issue with, but it would  
2 have stayed in New York, absolutely.

3 **Q.** Now, before American Airlines and JetBlue entered into  
4 the Northeast Alliance, you and others at American had  
5 discussed ways in which American could expand its capacity in  
6 New York, right?

7 **A.** Yes.

8 **Q.** And one way to expand capacity is to use planes with more  
9 seats; is that right?

10 **A.** True.

11 **Q.** And in, say, mid 2019, American had a number of small,  
12 regional jets flying out of JFK; is that right?

13 **A.** That's right.

14 **Q.** And there were around 25 of them; is that right?

15 **A.** I don't know if that's what the aircraft count was, but  
16 yeah, a large part of our schedule was out of Kennedy.

17 **Q.** Okay. A large part of your schedule was using those  
18 small, regional jets?

19 **A.** True.

20 **Q.** And how many of those passengers can be seated on one of  
21 those small, regional jets?

22 **A.** It depends on the jet, but between 50 and 76.

23 **Q.** And do these jets have more than one class of service?

24 **A.** They can.

25 **Q.** You're talking about the small, regional jets that

1 American Airlines was flying from JFK in mid 2019?

2 **A.** At the time in JFK, we were -- as I recall it, all 50  
3 seaters. Maybe we had a flight or two on the 75 seater. The  
4 50 seaters are single class, the 75 seaters have a first  
5 class and an economy class.

6 **Q.** Okay. Well, let me go back then, in 2019, at JFK,  
7 American was only flying -- when you're talking about these  
8 regional jets, it was only flying the 50 seaters?

9 **A.** Yeah, disproportionately, yes.

10 **Q.** Okay. And those 50 seaters do not have two classes of  
11 service, right?

12 **A.** Also true.

13 **Q.** And what your plan was at that point in time, 2019, was  
14 to replace all of those small, regional jets, with larger,  
15 regional jets?

16 MR. JONES: Yeah, that's been our plan across our  
17 system.

18 **Q.** Okay. And so those larger regional jets were the ones  
19 that you were just talking about a moment ago, which seat 65  
20 to 75 passengers, correct?

21 **A.** Correct.

22 **Q.** And those larger regional jets also have two classes of  
23 service, correct?

24 **A.** Also correct.

25 **Q.** Now, if American had all two class jets, regional jets



1 flying from New York City, it could better compete for  
2 corporate customers, correct?

3 **A.** Ideally, it could. Whenever we tried them in New York,  
4 we weren't very successful in getting them for corporate  
5 customers.

6 **Q.** Let's focus for a moment on JFK. So in 2019, at JFK, you  
7 only had the smaller jets that did not have two classes of  
8 service, right?

9 **A.** Correct.

10 **Q.** Okay. And shifting from small regional jets to these  
11 larger regional jets that you just described, you sometimes  
12 call that up-gauging?

13 **A.** That's true.

14 THE COURT: The larger regional jets are the 76  
15 seaters with two classes?

16 THE WITNESS: Correct.

17 THE COURT: Go ahead.

18 BY MS. SWEENEY:

19 **Q.** So another way to expand capacity, besides up-gauging, is  
20 to add flights to more destinations, correct?

21 **A.** That is true.

22 **Q.** And another way to expand capacity is by adding frequency  
23 to existing destinations?

24 **A.** Yes.

25 **Q.** Okay. Let's look at Plaintiffs' Exhibit 105 and this is

1 in evidence.

2 So Mr. Raja, this consists of a May 2019 e-mail  
3 Mr. Goodman sent to you, and he CCs Jason Reisinger,  
4 attaching a document he calls a "one-pager on New York City  
5 strategy," right?

6 **Q.** And at this point in time, in May of 2019, Mr. Goodman  
7 was in network planning; is that right?

8 **A.** He was.

9 **Q.** And what about Mr. Reisinger?

10 **A.** Yeah. He was our head of capacity planning, determining  
11 where the airline flies, what schedule pattern, where.

12 **Q.** Okay. And this was several months before you started  
13 negotiating the Northeast Alliance, correct?

14 **A.** Yes.

15 **Q.** And on the first page of the attachment, if you could  
16 turn to that, please, this is the one pager strategy that is  
17 described in the cover e-mail, right?

18 **A.** Yes.

19 **Q.** And I hope you can read it. It's a little small. But if  
20 you look at the first page, around two-thirds of the way down  
21 the page, under the black header title, "Objective: Fly a  
22 competitive products in all markets," did you see that?

23 **A.** I do.

24 **Q.** Okay. And then below that, it says, "Develop plan to  
25 have all single class RJs out of New York City." And what

1 this refers to is what you just spoke about a moment ago,  
2 right? That American Airlines planned in 2019 to switch out  
3 all of the single class regional jets from New York City,  
4 right?

5 **A.** Not to quarrel with the word, but we tend to use the word  
6 "plan" a lot, but our plans change like every week. So this  
7 is -- like some of these things, it's really more of a  
8 proposal of what we can do. We didn't have a plan as yet.  
9 What we were searching for through all of this stuff was some  
10 means of being more competitive in New York.

11 **Q.** And this was part of your New York City strategy,  
12 correct?

13 **A.** Yeah, it was -- I'd say it was an attempt at a New York  
14 strategy. In the 18 years I've been at the company, we've  
15 had at least that many different New York City strategies  
16 until the NEA came along.

17 **Q.** And that's what the document is called, New York City  
18 strategy, right?

19 **A.** Yeah. This is one of the documents on New York City  
20 strategy.

21 **Q.** Okay. And then I'm reading along where I was a moment  
22 ago. "Develop future narrow body with lie-flat business  
23 class that can fly all TCON markets, not just LAX and SFO."

24 Do you see that?

25 **A.** I do.

1     **Q.** Now, that lie-flat transcontinental service, that's  
2 something that was started by JetBlue; is that right?

3     **A.** No. It was started by American Airlines.

4     **Q.** It was started by American Airlines on these two routes;  
5 is that right?

6     **A.** Yes.

7     **Q.** Okay. And then later on, American Airlines expanded  
8 that, as indicated here, correct?

9     **A.** No.

10    **Q.** You never expanded transcontinental lies-flats?

11    **A.** No. We've only flown it on LA and San Francisco.

12    **Q.** Okay.

13    **A.** Oh, and the NEA, we started flying in Orange County, too.

14    **Q.** Okay. I'll move on, then.

15                 Now, let's look at the top of the document under  
16 "Objective. Serve Box 2.0 markets with schedule depth."

17                 Do you see that?

18    **A.** I do.

19    **Q.** First of all, what is Box 2.0?

20    **A.** In the particular geography of the American Airlines hub  
21 network, if you think about the geography of Chicago,  
22 Philadelphia, Washington, D.C., Charlotte and Miami and DFW,  
23 it creates a sort of a box. And just because of the  
24 geography, we can serve cities in those box more economically  
25 than what our competitors can. If we -- if you just draw a

1 line from, pick something in the middle, Lexington, Kentucky,  
2 we spend less airplanes than if you were to go to draw the  
3 connection over Houston or Minneapolis or something. So it's  
4 ten percent less airplane, ten percent less crew, ten percent  
5 less fuel. So we tend to have a lot of flying in those  
6 markets. They tend to do really well and drive a lot of  
7 connectivity.

8 So the idea -- what this is really saying is that  
9 in New York, we can't really win a New York City customer.  
10 But we're great in Lexington. Let's figure out how we get  
11 more customers from inside of the country to New York.

12 **Q.** So Mr. Raja, the e-mail says to -- well, it says  
13 "schedule depth." Does that refer to frequency?

14 **A.** Yeah. So what he's referring to is -- so take a market  
15 like, at the time, if I recall right, they were looking at  
16 like northwest, Arkansas, Bentonville, Arkansas. We don't  
17 have as many slots as what Delta has in Kennedy. We have  
18 what's called 150 -- I'm rounding it. Fewer than --

19 **Q.** I'm sorry to interrupt. I think maybe you misunderstood  
20 my question or I asked a poor one, so let me --

21 **MR. WALL:** No, I think he was answering the  
22 question. She should not interrupt.

23 **MS. SWEENEY:** And I apologize. But we're on a --

24 **THE COURT:** So I think let him go on a little bit,  
25 because I'm not really clear.

1 MS. SWEENEY: Okay. Go ahead, Mr. Raja.

2 THE WITNESS: So because we don't have as many  
3 slots as what Delta has, we can't offer a competitive  
4 schedule in all the same markets they have. They have 150  
5 more, or something. So we have to figure out, when we have  
6 less access to the infrastructure of New York, how can we  
7 credibly go and compete when customers buy on network?

8 And what we found is that if Delta flies -- I'll  
9 make it up -- 30 cities, and they fly them all five times a  
10 day, we can't match the same thing. We don't have the slots.  
11 So what this is, we're not doing particularly well for the  
12 New York-originating customer, but we do great with a  
13 northwest Arkansas originating customer. Let's really focus  
14 on having a depth of schedule in northwest Arkansas to New  
15 York. We're going to be a carrier that gets people to New  
16 York, as it's commonly described.

17 And then Delta may match us frequency for  
18 frequency, but there's just going to be some markets that we  
19 don't compete in as much or as hard.

20 **Q.** Okay. So here Mr. Goodman is proposing adding new  
21 service between New York and cities like "CAE." Is that  
22 Columbia, South Carolina?

23 **A.** That's correct. That would be one of those cities.

24 **Q.** And Charleston, South Carolina, is that "CHS"?

25 **A.** Correct.

1       **Q.** And how about EYS? What's that?

2               THE COURT: E or T?

3               THE WITNESS: Oh. "TYS." Thanks Knoxville.

4               MS. SWEENEY: Okay. Thank you.

5       BY MS. SWEENEY:

6       **Q.** And then for "Future," he's proposing adding frequencies  
7 and another O and D, right? He goes on to say, "Continue to  
8 add frequency in strong box 2.0 markets. Austin" --

9               And what's SAI?

10      **A.** That's "SAT," San Antonio, Texas.

11      **Q.** Okay. Thank you.

12              So in this time period, it's fair to say that  
13 Mr. Goodman, together with Mr. Reisinger, were proposing  
14 adding these markets for the New York based flights, correct?

15      **A.** Yeah, they were proposing them. The irony of this New  
16 York strategy is it's actually not a New York strategy; it's  
17 a rest-of-the-country strategy. And yeah, they were  
18 proposing those things, things that didn't come to  
19 materialize because Austin and San Antonio are, in the world  
20 of the airline, more expensive than Knoxville. Because  
21 they're further away, it consumes more airplanes. So that's  
22 why that's a future thing to do, because it's a very  
23 expensive thing. And we know that if we are going to Austin,  
24 it probably wouldn't be performing as well for us.

25      **Q.** But these were strategies -- so in other words, your

1 answer is, yes, they were proposing adding these new flights,  
2 correct?

3 **A.** They were proposing it. And as you can tell, it was a  
4 pretty -- as I assessed at the time, a pretty marginal  
5 strategy to go. It's making the best of a bad situation is  
6 really what it is.

7 **Q.** Let's turn to Plaintiffs' Exhibit 128. And this exhibit  
8 is in evidence, but it has redactions, so we'll need to  
9 publish the redacted version.

10 So this is a June 15, 2019, e-mail exchange that  
11 you had with the pilot, correct?

12 **A.** Yes.

13 **Q.** Okay. And this was -- this was around the time that you  
14 received that New York -- this was maybe a month after you  
15 received that New York strategy one-pager; is that right?

16 **A.** Correct.

17 **Q.** Okay. Now, and so in this e-mail that is Plaintiffs'  
18 Exhibit 128, the pilot is asking you about American's plans  
19 to expand its capacity in New York City, right?

20 **A.** Correct.

21 **Q.** And you respond -- let's look at the first paragraph of  
22 your response. And in the fourth line down, you say -- and  
23 this starts near the end of that -- yeah, fourth line.

24 "Over" is the first word. You say, "Over time, the little  
25 RJs will slowly get up-gauged," right?



1       **A.** Yes.

2       **Q.** And that's what we were talking about before, American  
3 had this plan to replace those single class, small regional  
4 jets with larger, two-class regional jets, right?

5       **A.** Yes.

6               For what it's worth, that's kind of across our  
7 system at this time. But, yes, true.

8       **Q.** Okay. Thank you.

9               And then below that, in the second paragraph, you  
10 say, "We are looking at MCO again?"

11              What is that?

12       **A.** Orlando.

13       **Q.** Orlando. "In fact, we are rethinking a lot of New York  
14 City to sunshine markets as winter comes."

15              Right?

16       **A.** Correct.

17       **Q.** And those other sunshine markets that you're referring to  
18 there are Florida, the Caribbean, and South America; is that  
19 right?

20       **A.** Yeah, we oftentimes -- when we talk about the sunshine,  
21 it's pretty much anything in the Southwest or the southeast,  
22 so that includes things like DFW, Phoenix, other stuff.

23       **Q.** Thank you. Let's turn -- we can put this aside and let's  
24 turn to Plaintiffs' Exhibit 119. And again, this is in  
25 evidence. It's one that we already looked at today. And

1 earlier when we looked at this Exhibit, it was in connection  
2 with Boston and now I want to focus on New York. And in  
3 particular, the paragraph that starts "NLGA," under the  
4 numbered paragraph 1. Do you see that?

5 **A.** I do.

6 **Q.** Okay. In this e-mail, he says, "Total flights and NML/RJ  
7 slit is unlikely to change."

8 And that's a reference to mainline regional jet?

9 **A.** Correct.

10 **Q.** So you'll have the same number of mainline jets and  
11 regional jets, but then he goes on to say, "But all RJ are  
12 two class." Right?

13 **A.** Correct.

14 **Q.** And here, again, what he's referring to is this  
15 up-gauging that we've been talking about. American was going  
16 to replace all of those regional jets with two class larger  
17 regional jets, right?

18 **A.** Yeah, this is me saying it, though, not him.

19 **Q.** Oh, I'm sorry. Thank you very much for that  
20 clarification. Okay. We can put that exhibit aside.

21 Now, you mentioned a couple times that the three  
22 slot constrained airports?

23 **A.** Yes.

24 **Q.** Right? And at JFK, American has, what, around 200 slots;  
25 is that fair?

1     **A.** Individual slots, yes, we usually count them in pairs, so  
2     we call it 100 pairs, but --

3     **Q.** And then at LaGuardia, American has around 170?

4     **A.** Ballpark, yes.

5     **Q.** Okay. And would you agree that slots are a scarce  
6     resource in those airports?

7     **A.** Certainly.

8     **Q.** And would you agree that they're a valuable resource?

9     **A.** I do. I would.

10    **Q.** And would you agree that there is high demand for those  
11    slots or slot pairs, as you call them?

12    **A.** There's a lot of demand, but oftentimes from very few  
13    carriers, yes.

14    **Q.** And in those airports, if you don't use your slots, you  
15    can lose them; is that right?

16    **A.** Certainly.

17    **Q.** And it's also true, isn't it, that some airlines don't  
18    have any slots at LaGuardia and JFK?

19    **A.** Yes, that's true.

20    **Q.** And is it also true that there are some airlines that  
21    have tried to get slots at those airports and couldn't?

22    **A.** I suspect that's true, yes.

23    **Q.** And at JFK, for example, there are no ultra low cost  
24    carriers that have slots, correct?

25    **A.** Not to my knowledge right now.

1     **Q.** So your answer is correct, there's no ULCC that has a  
2 slot at JFK?

3     **A.** Correct. And I'm not trying to be too cute by half, but  
4 the way these slots work, sometimes people own slots but they  
5 lease out the slots and things like that. I don't know the  
6 entirety of everyone else's slot holds, other than what gets  
7 publically filed.

8     **Q.** Okay. And how about at LaGuardia? At LaGuardia only a  
9 tiny percentage of the slot pairs are held by ultra low cost  
10 carriers, correct?

11    **A.** Yeah, I don't know how tiny tiny is, but yes. A smaller  
12 percentage than there are for us and Delta. That's for sure.

13    **Q.** And going back to the use it or lose it issue, so if you  
14 don't use your slot, then the FAA can recall that slot,  
15 right?

16    **A.** True.

17    **Q.** And then the FAA can auction it off; is that right?

18    **A.** Whatever the FAA deems is -- the FAA has jurisdiction  
19 over the slots. They can grant them, they can auction them,  
20 they can do whatever they think is right.

21    **Q.** So the FAA can give that slot or sell that slot to one  
22 American Airlines's competitors; is that right?

23    **A.** True.

24    **Q.** Is your answer yes? I'm sorry. I don't mean to speak  
25 over you.

1     **A.** Yes. No. No, you're fine.

2     **Q.** And that would include the ULCCs?

3     **A.** It would.

4     **Q.** Now, it's also true, isn't it, that some slots are leased  
5 by airlines to other airlines, right?

6     **A.** That's also true.

7     **Q.** And in that case, if you lease your slot to another  
8 airline for, say, a short period of time, you get that slot  
9 back at the end of that period of time, right?

10    **A.** When the lease expires, yes.

11    **Q.** Okay. And if, say, American Airlines had leased a slot  
12 to Delta, during that period of time when that slot was  
13 leased, it would not be available to any other bidder, say a  
14 low cost -- an ultra low cost carrier, right?

15    **A.** Yeah, because Delta would be using it.

16    **Q.** Let's turn to Plaintiffs' Exhibit 298. This is in  
17 evidence.

18               This is a February 5th, 2019 e-mail regarding  
19 updates to American Airlines' JFK slot portfolio. And  
20 there's several different e-mails here, and I want to focus  
21 on Brent Alex, he's the manager of Global Access; is that  
22 right?

23    **A.** Correct. At the time he was, yes.

24    **Q.** So this is a couple of different e-mails and it starts  
25 out -- Brent Alex writes to his colleagues at American, not

1 including you, and I'm looking at the paragraph -- I think  
2 it's on the second page.

3 **A.** Yes.

4 **Q.** And he says "We've been in talks." Do you see that?  
5 "We've been in talks with the FAA?"

6 **A.** Yes.

7 **Q.** So he says, "We've been in talks with the FAA regarding  
8 American Airlines' utilization of our JFK portfolio, dating  
9 back to at least the time of the merger."

10 Do you see that?

11 **A.** Yes.

12 **Q.** Now, when he says dating back to at least the time of the  
13 merger, is he talking about the American Airlines/US Airways  
14 merger?

15 **A.** He is.

16 **Q.** And what year did that occur?

17 **A.** That close date was 2014.

18 **Q.** Okay. And then Mr. Alex goes on to say, "Since then,  
19 American Airlines has not utilized our full portfolio."

20 Do you see that?

21 **A.** Yes.

22 **Q.** And then later, I'm not sure if it's in the same  
23 paragraph, he says, "We've been advised that slot utilization  
24 at JFK/LaGuardia will be under stricter scrutiny going  
25 forward. In summary, we came to an agreement with the FAA to

1 give back seven permanent slots."

2 Did I read that correctly?

3 **A.** Yes. Yes.

4 **Q.** Okay. So American Airlines had to give back seven  
5 permanent slots at JFK because it was not fully utilizing  
6 those slots; is that right?

7 **A.** That's correct.

8 **Q.** Okay. And then you respond -- there's a step in the  
9 middle here which is that e-mail gets forwarded to you by  
10 someone else, right?

11 **A.** Yup.

12 **Q.** Okay. And you respond to that e-mail. You say, "One  
13 important thing. Don't cast this that we lost slots. We  
14 didn't use all of our slots for years, to the point that no  
15 one knew our true baseline. We thought 216. They thought  
16 200."

17 Did you write that?

18 **A.** I did.

19 **Q.** Okay. So you're saying here that American Airlines  
20 didn't use all of your slots for years. Right?

21 **A.** Yeah. And we didn't for the worst of reasons. When we  
22 put together the merger, our process for accounting for slots  
23 was extremely manual, and we had the wrong count. I was  
24 saying don't cast this that we lost slots because I was  
25 beside myself that we had. So my advice to Glenn Martin, who

1 was the director of this group at the time, is that I am  
2 going to handle the explanation of this that our post-merger  
3 accounting for these slots was poor, and this is what's  
4 happened.

5 **Q.** But you would agree that there was an underutilization  
6 for years, right?

7 **A.** An unintentional one for the worst of reasons because we  
8 didn't count right.

9 **Q.** Mr. Raja, let's turn to another exhibit. Can you put --  
10 let's look at Plaintiffs' Exhibit --

11 THE COURT: So what you're saying is there were  
12 slots you didn't use.

13 THE WITNESS: Correct.

14 THE COURT: And you say that the reason that you  
15 didn't use them was because you didn't realize you had them.

16 THE WITNESS: That's exactly right.

17 THE COURT: Okay.

18 THE WITNESS: Which -- before I make everybody  
19 sound completely ridiculous in this, AMR had slots,  
20 US Airways had slots, and these slots are denominated at  
21 different times through the year and there's a process by  
22 which we track them. Whenever we put these two things  
23 together, effectively, in that merge, we lost tracking of  
24 this number of slots and the unique slot IDs that go with  
25 them. And along the way in the merger -- there's no good



1 reason for it, but, yes. And as you can tell, I'm still  
2 probably a little beside myself that that happened.

3 BY MS. SWEENEY:

4 **Q.** I would like to turn now to Plaintiff's Exhibit --

5 THE COURT: I'm sorry, one more question.

6 MS. SWEENEY: I'm sorry.

7 THE COURT: The underutilization, one aspect of  
8 underutilization is whether there were these slots that you  
9 didn't use, right?

10 THE WITNESS: Correct.

11 THE COURT: As to the slots that you did use, were  
12 those underutilized? Was this referring to that, also, or  
13 no?

14 THE WITNESS: This, as I recall it -- and I'm going  
15 off of memory here. This is really recalling the fact that  
16 we weren't using the slots, because effectively, the FAA  
17 thought that we had 16-ish slots more than what we -- they  
18 were counting us as having more than what we did. So when  
19 you take all of our operations divided by slots, it looks  
20 like that.

21 THE COURT: Were you underutilizing the slots that  
22 you knew you had?

23 THE WITNESS: We were not endeavoring to  
24 underutilize the slots at all.

25 THE COURT: Not endeavoring, but that fact.

1 THE WITNESS: There were periods along the way  
2 where we had, sure. But unfortunately, for the worst of  
3 reasons, as we were putting the airline together, the  
4 actual -- the schedule processes of these two things were not  
5 always very lined up.

6 I mean, there's a lot of things in our institution  
7 at that time that was not great business processes, and that  
8 drove a lot more of the underutilization than anything else.  
9 So yes, there were definitely periods along the way where we  
10 did, true.

11 THE COURT: Go ahead.

12 BY MS. SWEENEY:

13 Q. Can you turn to Plaintiffs' Exhibit 257. This is not in  
14 evidence. This is a December 8, 2019, e-mailing -- e-mail  
15 updating Mr. Raja on the FAA position before -- before your  
16 formal meeting with the FAA. Is that right, Mr. Raja?

17 A. Correct.

18 Q. And this is an e-mail that you received on or around that  
19 date, correct?

20 A. That's correct.

21 MS. SWEENEY: Okay. Plaintiffs' move for the  
22 admission of Plaintiffs' Exhibit 257.

23 MR. WALL: Your Honor, this issue is this is  
24 hearsay. There's a hearsay issue, but it may not have  
25 anything to do with what she's asking about. I don't know.

1 There's a reporting here of what third-parties are saying.  
2 And again, if it's not offered for the truth, it's fine.

3 MS. SWEENEY: We're not offering the third-party  
4 statements for the truth, Your Honor.

5 THE COURT: All right. Fine. Then I admit it with  
6 that caveat.

7 (Plaintiff Exhibit No. 247 admitted into evidence.)

8 THE COURT: Go ahead. You can display it.

9 MS. SWEENEY: Thank you.

10 Now, I apologize for my slowness, but I'm looking  
11 for it in the documents.

12 THE COURT: That's fine. You're not slow.

13 MS. SWEENEY: And it says FAA may not look -- I  
14 can't find it in the document, though, so that's what I'm  
15 struggling with. I'm trying to direct the trial director.

16 THE COURT: What are you looking for?

17 MR. DAVIS: It starts out, "FAA may not look as  
18 favorably."

19 Top of page 2. Thank you very much.

20 BY MS. SWEENEY:

21 **Q.** The top of page 2 it says, "FAA may not look as favorably  
22 upon an S20 MAX waiver request as it has."

23 Now, S20 refers to the summer of 2020, right?

24 **A.** Correct.

25 **Q.** And so the slots pairs come in seasons of winter or

1 summer; is that right?

2 **A.** That's right.

3 **Q.** And the MAX waiver is a waiver that American Airlines  
4 received to underutilizing the slot below the 80 percent  
5 threshold because of the grounding of the MAX jet, correct?

6 **A.** That's correct.

7 **Q.** Okay. And it goes on to say, "Where FAA may not look as  
8 favorably upon a waiver request, particularly with a large  
9 number of slots we're not planning to use at JFK."

10 **A.** Correct.

11 **Q.** And then it goes on to say, "Demand for JFK is high, so  
12 sitting on unused capacity is not good."

13 **A.** That's correct.

14 **Q.** Okay. So it's true that during this time period, demand  
15 for slots at JFK was high, right?

16 **A.** True.

17 **Q.** And here is it -- it looks as if American Airlines was  
18 sitting on unused capacity, right?

19 **A.** Not by our choice. It was because the 737 MAX wasn't  
20 flying; otherwise, it would not have been underutilized.

21 **Q.** Well, but that's only true for a certain period of time  
22 that you had that MAX waiver, correct?

23 **A.** That's correct. The summer of '19 and winter of '19  
24 season was when the MAX was down.

25 **Q.** And at some point, the FAA refused to renew the request

1 for a waiver for the grounding of the MAX, correct?

2 **A.** Yes. Indeed. What this is the precursor to is a meeting  
3 that I took with some senior officials at the FAA, in which  
4 they were -- though they were very sympathetic about the  
5 MAX -- and at the time, we didn't know when the MAX would be  
6 back up and flying. They said, "Before we go and do any  
7 further waivers, we want to know that you and American are  
8 doing all that you can to go and get other people to go cover  
9 slots for you, until such time that the MAX is back."

10 **Q.** We can put this exhibit aside.

11 And ultimately, you entered into some lease  
12 agreements; is that right?

13 **A.** We did. We tried to enter into a lot of these  
14 agreements.

15 **Q.** And you leased five to Delta; is that right?

16 **A.** I should say this. We started entering into those lease  
17 agreements shortly after that. A few weeks before the start  
18 of the summer '20 season, COVID happened, so nobody was  
19 flying any of the slots at that point in time. A little bit  
20 of this became moot.

21 **Q.** Understood. But ultimately, you leased the bulk of those  
22 slots that you couldn't use or weren't utilizing at that time  
23 to JetBlue; is that right?

24 **A.** We -- I mean, ultimately the agreement was moot, but we  
25 had a deal in principle, yes. A deal in principle to do so,

1 true.

2 MS. SWEENEY: Okay. Let's look at one of those  
3 documents. Let's look at Plaintiffs' Exhibit 267. This is  
4 in evidence. It has some redactions.

5 THE COURT: Go ahead.

6 MS. SWEENEY: And this is a demonstrative for  
7 Plaintiffs' Exhibit 267. And I don't believe there's any  
8 objections to the use of this demonstrative.

9 THE COURT: Okay. It's fine. No objection.

10 BY MS. SWEENEY:

11 Q. Okay. This is a series of text messages between you and  
12 Brent Alex, right?

13 A. It is.

14 Q. And this is in early January of 2020?

15 A. True.

16 Q. And in the first text, Mr. Alex writes, "B6 taking up to  
17 27 of 40 slots. The other day they said 11 slots. Holy  
18 smokes, jackpot," right?

19 A. Yes.

20 Q. And you respond by saying, "Just saw it and had the same  
21 reaction"?

22 A. Yes.

23 Q. So both of you are expressing relief and excitement that  
24 those slots are being released, correct?

25 A. Absolutely. And the context of this document is very

1 important. So coming out of my meeting with the FAA, they  
2 told us, "Look, we're very sympathetic about the MAX, but we  
3 don't know how long this is going to be down in the future.  
4 In summer of 2020, we have a lot of demand for slots. You,  
5 American Airlines, we don't care if you have to hold your  
6 nose and do deals with Delta or Spirit Airlines or JetBlue or  
7 anybody else, go try to cover as many slots as you possibly  
8 can on your own. Then if you're unable to cover them and the  
9 MAX is still down, come back to us and let's talk."

10 So this is now January. In April, the summer of  
11 2020 season starts, so people are in the final throes of  
12 actually building their schedules. So we're basically going  
13 as beggars to our competitors trying to get them to cover  
14 these things, or we would lose them.

15 So we called everybody: JetBlue, Delta, Spirit.  
16 And everyone recognized the relative amounts of leverage that  
17 they had on us. JetBlue saw it as a sign to go and get more.  
18 Delta Air Lines reached out to me, and Esposito, when we  
19 actually did talk, what he wanted to say was he just wanted  
20 to buy up all of our New York slots, which that conversation  
21 didn't go any further. Spirit Airlines we had talked to, but  
22 there was some issue because they didn't want to be hosted by  
23 us in our terminal, forget the particulars.

24 And so what ended up happening was the people who  
25 ended up -- the first ones to the party were JetBlue, and so

1 we were reacting, holy smokes, jackpot, because in this thing  
2 where we literally thought we would have 14 days to go and  
3 move these slots, we were able to move a material number of  
4 them.

5 And we were also reaching out to international  
6 carriers. I think we reached out to cargo carriers along the  
7 way. It was a uniquely crazy period brought purely by the  
8 MAX.

9 **Q.** Mr. Raja. Thank you for that answer. I just want to  
10 request that you answer -- the questions that can be answered  
11 with a yes or no with a yes or no. I understand you want to  
12 explain, but your counsel will have an opportunity to ask you  
13 questions after I sit down, and we are operating on a clock.  
14 Is that okay?

15 **A.** Sure. Sorry.

16 **Q.** Okay. I'd like to introduce -- I'd like to look at  
17 Plaintiffs' Exhibit 51. And I don't think this is in your  
18 binder, so I'm going to hand out some copies.

19 My mistake, it's in the binder.

20 THE COURT: What exhibit number did you say?

21 MS. SWEENEY: Plaintiffs' Exhibit 51.

22 THE COURT: Thank you.

23 MS. SWEENEY: This is in evidence, it's an e-mail  
24 from Mitchell Goodman to you, dated October 8, 2019. And  
25 your response. Correct?



1       **A.** Yes.

2       **Q.** Okay. It actually starts out at the bottom with an  
3 e-mail from Margaret Muir, correct?

4       **A.** I'm catching up, but yes. That looks right.

5       **Q.** Okay. And what was Ms. Muir's position at that point in  
6 time?

7       **A.** She was a manager in our domestic route planning team.

8       **Q.** Okay. And her e-mail is about highlights of this week's  
9 OFS changes. What are OFS changes?

10       **A.** OFS is a shorthand for out force sale, the schedule that  
11 customers can actually purchase and see we refer in shorthand  
12 as OFS, out for sale.

13       **Q.** Okay. And then looking at -- okay. Let's turn now to  
14 the response to her e-mail from Mr. Goodman. And he asked a  
15 question about LGA, which is LaGuardia, right?

16       **A.** Yes.

17       **Q.** Okay. And then I believe you're on the next e-mail -- or  
18 the answer is not the season, and then there's an e-mail from  
19 you above that. This is dated October 8, 2019, at 6:13 p.m.  
20 And you say, "Roger that, keep pushing it." And then you  
21 say, "Related, when we start flying our New York City slots,  
22 what if we actually flew some JFK we liked and take the RJs  
23 out?" Right?

24       **A.** Yes.

25       **Q.** This is what we were talking about before, this was

1 replacing the small regional jets with larger regional jets,  
2 right?

3 **A.** This is actually trying to compare it with the scale of  
4 cost at Kennedy. The challenging with the larger regional  
5 jet at JFK, is it's still -- the beauty of JFK is you can fly  
6 outside of the LaGuardia perimeter. So the reference to what  
7 if we were to take something out is me kind of pushing that  
8 like could we actually do something bigger or bolder with  
9 Kennedy?

10 **Q.** And then above that, you have a response from  
11 Mr. Goodman, right?

12 **A.** Right.

13 **Q.** And the third paragraph down, he says, "The long term  
14 plan for JFK still involves some regional jet flying so we  
15 can have the best spoke patterns to New York City." And then  
16 he goes on to say, "And RJs, regional jets, are good to fly  
17 slots we may want for international growth in the next few  
18 years."

19 Did I read that correctly?

20 **A.** You did.

21 **Q.** So here what Mr. Goodman is alluding to is that sometimes  
22 American has sat on slots in order to hold on to them in case  
23 they wanted them in the future, right?

24 **A.** No, he's actually referring to something -- a unique  
25 contrivance in the schedule. Like people want to be able to

1 go from -- I'll make it up, JFK to Raleigh Durham at 8:00  
2 a.m. and come back at 5:00 p.m., but in order to go and make  
3 the aircraft rotation work efficiently, something's got to  
4 fly at 2:00 p.m. or 4:00 p.m.. Those slots are not  
5 particularly valuable when you do them domestically, not a  
6 lot of people go places at 2:00 p.m. Internationally, those  
7 things start to become much more valuable. Those start to  
8 come in arrivals when European flights can come in. So what  
9 he's trying to say -- I'm trying to push like how can we do  
10 something bigger in New York and he's saying, effectively, in  
11 Kennedy, we still have some RJ flying, because once -- like  
12 if we ever are going to do the international stuff, we're  
13 going to need to keep a schedule pattern to places like  
14 Raleigh-Durham or what have you, whatever he was thinking at  
15 the time.

16 **Q.** Let me ask a follow-up question on that.

17 He says, "And RJs are good to fly slots we may want  
18 for international growth in the next few years." So let me  
19 ask you about this. When you have a regional jet flying a  
20 slot, say it's a small regional jet, it doesn't seat very  
21 many passengers, that fulfills your obligation to use it or  
22 lose it, right?

23 **A.** Oh, sure, if it fills the obligation. But that's not  
24 actually the thing he's -- I didn't read it as that's what he  
25 intended here.

1     **Q.** So if you fly a small jet, it doesn't matter the size of  
2     the jet, as long as you're using that slot to fly an airplane  
3     somewhere with some passengers, correct?

4     **A.** Yeah. Once you're flying something on the slot, you get  
5     to use the slot. But he's talking here, the spoke patterns  
6     is the keyword there.

7     **Q.** Mr. Raja, would you agree that American thinks that  
8     further consolidation of the domestic airline industry is a  
9     good thing?

10    **A.** I -- when you put it like that, I wouldn't say it exactly  
11    like that. Consolidation has been good for us. What  
12    consolidation looks in the future, we don't know. We're open  
13    to it, certainly. But we think there's a lot of ways that we  
14    can go do it, like go create value for the customers is what  
15    I mean.

16    **Q.** Let's look at Plaintiffs' Exhibit 306. This is in  
17    evidence. It's redacted, so we'll display a redacted  
18    version.

19                   Do you have that in front of you?

20    **A.** I do. I do. Sorry. I didn't know you were waiting on  
21    me.

22    **Q.** And I'd like you to take a look at the page -- this is --  
23    it's an e-mail chain between you and Mr. Mancini; correct?

24    **A.** That's correct.

25    **Q.** And it's May 16, 2021?

1       **A.**   Correct.

2       **Q.**   And these are some slides that you prepared in advance of  
3       the July board of directors meeting?

4       **A.**   That's right.

5       **Q.**   And then if you could turn to the page that has the  
6       footer on it that says, "What is our strategy?" This is in  
7       the attachment.

8               Do you have that?

9       **A.**   I do have the attachment. I'm sorry, was there someplace  
10      that I should be looking right now?

11      **Q.**   Yeah, there are footers at the bottom, and one of them  
12      says, "What is our strategy?" There's a number there, it is  
13      called a Bates number, and it ends in 1238. And we can  
14      display that on the screen -- we can, but it is completely  
15      redacted.

16      **A.**   Oh, yeah. Fair enough.

17               MR. WALL: Just for clarification, are you talking  
18      about a slide?

19               THE WITNESS: Oh, yeah. I see it now. I'm sorry,  
20      I find it.

21               MS. SWEENEY: I believe it's an Excel sheet.

22               THE WITNESS: Yeah, I got you. It is.

23      BY MS. SWEENEY:

24      **Q.**   Now, because American has redacted this page, I'm going  
25      to ask you not to read it aloud. But looking at the column

1 B, the second column to the right, at the very top, starting  
2 with the word "given," can you please read that silently?

3 **A.** (Witness reads document.) Okay. I've read it.

4 **Q.** And this reflects your thinking at the time that you  
5 prepared these slides in May of 2019. Is that fair?

6 **A.** Yes, that's what I was thinking at the time.

7 THE COURT: Can you just direct me? Which page  
8 again?

9 MS. SWEENEY: It has Bates number that ends in  
10 1238, and it has the words, "What is our strategy," in the  
11 bottom, right-hand corner. And I apologize, it's hard to  
12 read.

13 THE COURT: I have 1238. It says, "How to create  
14 value," in the bottom, right corner.

15 MR. WALL: Your Honor, every page here ends with  
16 1238, and then they have different words after it.

17 THE COURT: Oh, I see.

18 THE WITNESS: It's the second to the last page.

19 MR. CONGDON: I believe it's the fourth page.

20 THE COURT: I thought it was --

21 THE WITNESS: Ouch.

22 THE COURT: Okay. Go ahead. Got it.

23 BY MS. SWEENEY:

24 **Q.** So in May of 2019, this sentence at the top of this  
25 redacted section reflects your thinking at the time, right?

1       **A.** Yes.

2       **Q.** Okay. Let's put that exhibit aside.

3               And can we look at Plaintiffs' Exhibit 125. This  
4 also is in evidence and is redacted.

5               And this e-mail is a cover e-mail containing some  
6 slides, right?

7       **A.** Yes.

8       **Q.** And you prepared the draft of some of these slides, which  
9 is reflected in the text of the e-mail itself, below your  
10 e-mail, dated October 9, 2019, correct?

11       **A.** Yes. That looks like it, yes.

12       **Q.** Okay. So let's look at the very first page of this  
13 exhibit, and in the left-hand column, the first row is  
14 JetBlue, right?

15       **A.** Yes.

16       **Q.** And at the time, you did not have any kind of a  
17 partnership with JetBlue, right?

18       **A.** Correct.

19       **Q.** And then reading across that first row, in the third  
20 column, under the heading of "Potential Value," there are  
21 several bullet points. Do you see that?

22       **A.** Yes.

23       **Q.** And the very first bullet point says, "Further domestic  
24 consolidation," right?

25       **A.** Correct.

1     **Q.** So this was, what? Three months before you started  
2     discussing with JetBlue the partnership that ultimately  
3     became the Northeast Alliance?

4     **A.** That's correct.

5     **Q.** Okay. Let's look at another Exhibit. This is  
6     Plaintiffs' Exhibit 161. And again, this is in evidence, but  
7     it has some redactions.

8                 This is an e-mail thread between you and Robert  
9     Isom and Sue Sanders from February of 2020, regarding an  
10    agenda, correct?

11    **A.** I'm sorry, I'm not on the same page. Will you tell me  
12    again what number it was?

13    **Q.** It's Plaintiffs' Exhibit 161, and I'm looking at the  
14    first page, which is a cover e-mail?

15                 MR. WALL: I don't think we have that.

16                 MS. SWEENEY: Okay. I'm sorry, let me look here.  
17    I have it here.

18                 THE COURT: It's not in my binder, either.

19                 MS. SWEENEY: Okay. We'll move on to another  
20    exhibit, Your Honor. Let's turn to Plaintiffs' Exhibit 74.  
21    And this is in evidence.

22    BY MS. SWEENEY:

23    **Q.** So Mr. Raja, are these some materials that were prepared  
24    for a meeting that you were going to have with Robert Isom?

25    **A.** Yes.



1 Q. And this is in February of 2020?

2 A. That's right.

3 Q. And if you could turn to the third slide in the  
4 attachment, the title is, "Partnership post Big 3"?

5 A. Sure.

6 Q. Do you see that?

7 A. Yes.

8 Q. And a lot of this is redacted, but the questions that I'm  
9 going to ask you right now aren't part of the redacted part.

10 But "Partnership Priorities post Big 3," now Big 3  
11 there is referring to the partnerships that American  
12 established -- strike that.

13 Two of the big three partnerships that are being  
14 referred to there are the WCIA and the NEA, right?

15 A. I don't actually recall, but I -- I believe that to be  
16 the case.

17 Q. Okay. And then if you look at about two-thirds of the  
18 way down the slide, just below that redaction, there's a  
19 bullet point that says, "Continue what we started in the  
20 Americas."

21 Do you see that?

22 A. Yes.

23 Q. And then there's a bullet point there, and the part  
24 that's not redacted refers to JetBlue, correct?

25 A. Yes.

1 Q. So the plan was to continue to develop these  
2 partnerships, correct?

3 A. Correct.

4 Q. And then if you go to the next page of this -- the next  
5 slide in this deck --

6 A. Yes.

7 Q. Here you are assigning roles; is that right?

8 A. Yes.

9 Q. And the first box says, "Parker," right?

10 A. That's right.

11 Q. And Doug Parker, is that who that's referring to?

12 A. Yes.

13 Q. And at that time, was he then the CEO of American  
14 Airlines?

15 A. Yes, he was.

16 Q. And in this slide that you helped prepare, why don't you  
17 read the role that you assigned to Mr. Parker in the second  
18 column?

19 A. "Godfather of consolidation, involved only at deal  
20 closing or for true M and A."

21 Q. So you referred to the then CEO of American Airlines as  
22 the godfather of consolidation; is that right?

23 A. That's how we tease him, because others in the media have  
24 referred to him in that fashion.

25 Q. And that's how you refer to him yourself, right?

1     **A.** More pulling his leg. His personality is anything but  
2     what it would be like in that movie. That's why we got such  
3     a rise out of it.

4             MS. SWEENEY: I'm sorry. I'm looking for that  
5     missing exhibit. It will just take me one second.

6             THE COURT: Take your time.

7             MS. SWEENEY: Your Honor, I appreciate that it's  
8     early; would you mind if we broke for lunch now, and I could  
9     find that exhibit?

10            THE COURT: Sure.

11            MS. SWEENEY: Thank you very much. I appreciate  
12     it.

13            THE COURT: We'll break now.

14            So I have a 2 o'clock hearing in another case, so  
15     I'm fine. What we'll do is we'll break, we'll resume --  
16     What time are we resuming today.

17            THE DEPUTY CLERK: 2:45.

18            THE COURT: 2:45. I'll make sure we're done by  
19     2:45, and I'll just add 15 minutes at the end of the day.

20            MR. JONES: Thank you, Your Honor.

21            MS. SWEENEY: Thank you, Your Honor.

22            THE COURT: We stand in recess.

23            (Court in recess at 12:47 p.m.

24            and reconvened at 2:50 p.m.)

25            THE COURT: Everybody ready to go?

1 MS. SWEENEY: Yes, Your Honor.

2 THE COURT: All right. Go ahead.

3 BY MS. SWEENEY:

4 Q. Mr. Raja, before the break, I -- I was trying to find a  
5 particular document, and I think we finally found it. This  
6 is Plaintiffs' Exhibit 161, which is in evidence. It has  
7 some redactions, but we can publish the redacted version,  
8 Your Honor?

9 THE COURT: Yes.

10 MS. SWEENEY: Okay.

11 BY MS. SWEENEY:

12 Q. Have you had a chance to look at that, Mr. Raja?

13 A. Yes, I'm just reading it now.

14 Okay. All good.

15 Q. Okay. Thank you.

16 So this is an e-mail that you sent to Devon May  
17 in -- on October 6th, 2019; is that right?

18 A. Correct.

19 Q. And the subject is transition and there's an attachment  
20 called "partner priorities thoughts," right?

21 A. Yes.

22 Q. So this was around the time that you transitioned to the  
23 position of -- where you were in charge of the strategy  
24 for -- the network strategy; is that right?

25 A. Correct.

1 Q. Okay. And this is some ideas that you had; is that fair?

2 A. Yes. It sounds like it. I think it's really about  
3 transitioning, because a lot of this stuff was reporting to  
4 him. It was going to come report to me.

5 Q. Okay. So let's look at the -- I think it's actually the  
6 second page of the exhibit, but the first page of the  
7 attachment -- or -- strike that.

8 So on the first page, you say, "Here's a list of  
9 transition thoughts." And then -- so let's go back to the  
10 first page. My apologies. And you say, "I made a list of  
11 what I think are near-term projects and long-term projects"?

12 A. Correct.

13 Q. Okay. And then -- I'm trying to figure out what parts  
14 are redacted, which is most of it. Let's see. Let's go to  
15 the next page of this exhibit.

16 Okay. So because these -- these bullet points are  
17 redacted, I'm not going to ask you any questions about the  
18 first couple of bullets, but I'd like you to go to the next  
19 page.

20 THE COURT: I only have two pages.

21 MR. WALL: Yeah, we only have two pages.

22 MS. SWEENEY: We're --

23 THE WITNESS: Front and back? You mean the back?

24 BY MS. SWEENEY:

25 Q. Yeah, just front and back. So let's look at the back.

1 It's the second page. I'm sorry. And at the top, it says,  
2 "Next six months' projects. All are concurrent."

3 Do you see that?

4 **A.** I do.

5 **Q.** And then it says, "secure the homeland," right?

6 **A.** Yes.

7 **Q.** And underneath, that it says, "B6, develop Boston  
8 codeshare, slot swap, too."

9 Is that right?

10 **A.** It does.

11 **Q.** And that's something that you ultimately didn't pursue  
12 with JetBlue, right?

13 **A.** This is the formulation of a lot of things which turned  
14 into the NEA.

15 **Q.** Okay. And then below that it says, "Alaska Airlines  
16 rebuild with new baseline, develop a Pacific northwest  
17 presence," right?

18 **A.** Correct.

19 **Q.** And that ultimately ended up being the WCIA; is that  
20 right?

21 **A.** That's right.

22 **Q.** Now, there's a third bullet point, and I'd like you do  
23 read that to yourself because American has redacted that  
24 information. Do you see it?

25 **A.** I'm sorry. The one right under Alaska? Because there

1 are a couple --

2 THE COURT: Yes. Read it to yourself. It's  
3 redacted.

4 THE WITNESS: Okay. I've read it.

5 BY MS. SWEENEY:

6 Q. It -- and is it fair that this was a part of your  
7 thinking at the time about developing partnerships for  
8 American Airlines?

9 A. Yeah, although to put it by analogy, it's a bit like  
10 throwing darts at the dart board. I mean, there are some  
11 things on here which, you know -- we were -- we were working  
12 on a lot of things. Most of the things on this list never  
13 came to be and some of these things were -- like, the  
14 documents. It's just there for us to discuss.

15 Q. Okay. And I want to make sure -- my question was  
16 probably a little unclear because it's hard with all the  
17 redactions to see, but on the left, there are bullet points,  
18 right? And then there are sub-bullet points. So what I  
19 wanted you the look at is, after the fourth left-hand bullet  
20 point and then the third sub-bullet point, right? Do you see  
21 that?

22 A. Got it.

23 Q. Okay. And that's one of your transition thoughts, right?

24 A. Yeah, for discussion --

25 THE COURT: I'm not sure I got it.

1 MS. SWEENEY: Sure.

2 THE COURT: The fourth what?

3 MS. SWEENEY: So it's the fourth-most left bullet  
4 point, and then within that paragraph, it's the third bullet  
5 point down.

6 MR. WALL: Your Honor, just to take the mystery out  
7 of it, it's the one that says "domestic consolidations." I  
8 think we can all talk about that.

9 THE COURT: I got it. Okay. Fine.

10 MS. SWEENEY: Okay. Thank you. We can set that  
11 aside.

12 And, Your Honor, I'd like to -- I -- my colleagues  
13 reminded me that I forgot to move into evidence DX89, which  
14 is a Defense Exhibit. There are no objections. It's,  
15 actually, I believe, DX89-A, B, and C.

16 MR. WALL: No objection.

17 THE COURT: There's no objection. It's admitted.  
18 (Defendant Exhibit No. DX89-A, B, and C admitted  
19 into evidence.)

20 MS. SWEENEY: Thank you.

21 Now, Mr. Raja, I'd like to return to Plaintiffs'  
22 Exhibit 298, which we talked about earlier this morning.  
23 That document is in evidence.

24 Can we put that on the screen, please.

25 BY MS SWEENEY:



1       **Q.** And you were -- in your testimony you gave an explanation  
2 about American's underutilization of its JFK slots, right?

3       **A.** Correct.

4       **Q.** So turning to the exhibit, let's look at the top of the  
5 page. And you wrote this on February 5, 2019; is that right?

6       **A.** Correct. This is the one on the screen?

7               THE COURT: Yes.

8               THE WITNESS: Yes.

9               Yes.

10       BY MS. SWEENEY:

11       **Q.** Okay. Thank you. And you write, "We didn't use all of  
12 our slots for years to the point that no one knew our true  
13 baseline," right?

14       **A.** Correct.

15       **Q.** And then after that, you say, "We thought 216, they  
16 thought 200." Right?

17       **A.** Correct.

18       **Q.** And then the "we" here refers to American Airlines,  
19 correct?

20       **A.** Correct.

21       **Q.** So American thought that it had 216 JFK slots, right?

22       **A.** Correct.

23       **Q.** And then the second half of that sentence says, "They  
24 thought 200." Do you see that?

25       **A.** Correct.

1 Q. And "they" is referring to the FAA, right?

2 A. Yes.

3 Q. Okay. You can set that exhibit aside.

4 MS. MALTAS: Now, I have a new exhibit which is not  
5 in the binders. This is Plaintiffs' Exhibit 282. And this  
6 is in evidence.

7 May we publish, Your Honor?

8 THE COURT: Yes.

9 BY MS. SWEENEY:

10 Q. Mr. Raja, Plaintiffs' Exhibit 282 is a letter from the  
11 FAA to American Airlines dated February 26, 2020; is that  
12 correct?

13 A. Yes. That's what it looks like. Yep.

14 Q. Okay. Can you please turn to the fourth page of this  
15 exhibit?

16 A. I'm there. Sorry.

17 Q. Okay. And if you look at the first full paragraph on  
18 page 4, the letter states, "American's request with respect  
19 to JFK notably seeks waivers for slots for which American had  
20 not planned in the first instance to operate MAX aircraft."

21 Did I read that correctly?

22 A. You did.

23 Q. Now, please look at the second sentence where it says,  
24 "FAA is not aware of instances where the MAX was scheduled by  
25 American to be operated at JFK, nor has American asserted

1 otherwise."

2 Did I read that correctly?

3 **A.** You read it correctly.

4 **Q.** Okay. Let's turn to the third sentence, which says,  
5 "This aspect of American's request" -- and this is the FAA,  
6 right? -- "is intentioned with a general expectation that a  
7 slotholder seeking to retain its slots bears responsibility  
8 to prioritize usage of its slots over other operations."

9 Do you see that?

10 **A.** I do.

11 **Q.** Now, in this letter, Mr. Raja, the FAA did grant  
12 American's prior request for the MAX waiver for the  
13 summer '19 -- summer 2019 season, right?

14 **A.** Correct.

15 **Q.** And it also granted the extension of the waiver for  
16 winter 2019/2020, right?

17 **A.** Correct.

18 **Q.** But you understood, didn't you, Mr. Raja, that this  
19 letter was plainly signaling that the FAA would not grant the  
20 extension for the season summer 2020, right?

21 **A.** Correct.

22 **Q.** And -- and one of the reasons the FAA would not provide  
23 the waiver for summer of 2020 was because American was not  
24 actually using the MAX at JFK prior to the waiver; is that  
25 right?

1     **A.** This actually was the entirety of the nature of our  
2     debate with FAA, because you see the thing with the 737 MAX,  
3     which this is actually probably a very important technical  
4     issue, the 737 MAX and how we operated and a 737 standard is  
5     the same scheduled airplane. So pilots can interchangeably  
6     go between the two.

7             For American Airlines, one of our big 737 bases is  
8     New York. The other big base is in Miami. The MAX was an  
9     airplane which we had set to go into those two places.  
10    Before we took delivery, the way the schedule resembled it,  
11    it showed as an old 738, which in our scheduling code would  
12    be a 38D. The 73 MAX or 73M had not yet been introduced. We  
13    needed to take delivery of the airplane.

14            So though that sounds really technical, as the FAA  
15    looked at it, they looked at the world and said, well, you  
16    had 737s flying there, and you had other things that were  
17    there. It doesn't look like the MAX was in place. For us,  
18    those airplanes were going to fall out, and the MAX were  
19    going to come in.

20            So this was exactly the nature of the whole thing.  
21    The FAA would have to talk about their decision-making  
22    process through it. But for us, so much of the airplane, its  
23    support, its line maintenance, everything was based out of  
24    New York. So as long as we weren't taking the MAX --  
25    especially -- we were finding out when the crew schedule was

1 built that we had to go put the -- as we called it, the pain  
2 of the MAX disproportionately into New York and Miami. So --  
3 sorry.

4 **Q.** I'm sorry. I didn't mean to interrupt you. Are you  
5 done?

6 **A.** I was just going to say, so that's why they granted the  
7 thing in arrears because nobody knew that the MAX was coming.

8 And, yeah -- and so indeed when you went back and  
9 looked at it, it would say okay. Well, we had the 737s. The  
10 MAX wasn't necessarily flying there. That's true. But  
11 that's also why I said, but going forward, you know, you've  
12 got to go and find your own sources for figuring out how you  
13 go and manage slots. That's why in the -- probably  
14 concurrent with this thing, that's when we were going out and  
15 trying to lease slots to -- especially Kennedy slots to  
16 anybody we otherwise could.

17 **Q.** And --

18 **A.** Three weeks after this COVID came along, though.

19 **Q.** And the FAA also concluded that what was initially a  
20 highly unusual and unpredictable condition became a  
21 foreseeable condition once the grounding went on in time,  
22 correct?

23 **A.** Correct. And we concurred with it. That's why we were  
24 trying to find leaseholders or lessees.

25 **Q.** Okay. We can put that exhibit aside.

1                   And can we turn, please, back to Plaintiffs'  
2 Exhibit 282, which we looked at earlier today and is in  
3 evidence. I'm sorry; I -- DX89-B, which is the first slide  
4 deck in the -- the slide deck that we looked at, number of  
5 slides at, this morning.

6           **A.** Got it. I'm there.

7           **Q.** Okay. Thank you.

8                   MS. SWEENEY: And can we put that on the screen,  
9 please?

10           BY MS. SWEENEY:

11           **Q.** Let's turn to slide 93 in DX89. And, again, that's the  
12 first slide deck in this composite exhibit.

13                   Okay. And I guess what I was going to ask you  
14 about is -- is redacted.

15                   So I'm not going to talk about the numbers. So I'm  
16 just going to talk about the concepts in this chart, if  
17 that's okay. And we see a graph depicting the ASMs of  
18 American, JetBlue, and Alaska together, right?

19           **A.** Correct.

20           **Q.** And below that line, we see United ASMs, right, right --

21           **A.** Correct.

22           **Q.** -- and Delta ASMs? So in this exhibit, what's happening  
23 is you're comparing the American marketing network, including  
24 JetBlue and Alaska by virtue of the WCIA and the NEA to the  
25 other airlines' networks; is that right?

1       **A.**   Correct.

2       **Q.**   Thank you.   We can put that exhibit aside.

3               MS. SWEENEY:   Now I'd like to turn to Plaintiffs'  
4   Exhibit 917.   And this is not in your binder, so we're going  
5   to distribute that.

6       BY MS. SWEENEY:

7       **Q.**   Do you have that in front of you, Mr. Raja?

8       **A.**   I do.

9       **Q.**   Okay.   And the first page indicates that this is an  
10   e-mail from Devon May to you and to Jason Reisinger, right?

11       **A.**   Yes.

12       **Q.**   From March of 2019, correct?

13       **A.**   Correct.

14       **Q.**   And it's -- let's turn to the attachment, which is titled  
15   "JFK slot waiver stat sheet."   Do you see that?

16       **A.**   Yes.

17       **Q.**   Okay.   And I'm just going to read the first paragraph  
18   there, which says, "Historically, the FAA has tracked slot  
19   usage through a very time-consuming manual process.   However,  
20   they have recently introduced technology allowing them to  
21   track slot usage in a more precise realtime manner.   As a  
22   result, American Airlines will need to build and operate a  
23   larger schedule to maintain slot compliance, which would  
24   result in approximately eight to twelve more daily departures  
25   than what we operated in the summer of 2018."

1 Did I read that correctly?

2 **A.** You did.

3 **Q.** So in this time period, then, in 2019, you were  
4 anticipating operating a larger schedule so that you could  
5 maintain these slots, right?

6 **A.** True. Correct. Yes.

7 **Q.** Okay. And then it goes on to say -- it talks about the  
8 construction that's about to occur at JFK, right?

9 **A.** Correct.

10 **Q.** And then -- and then the FAA granted American Airlines'  
11 request for a slot waiver because of that construction; is  
12 that right?

13 **A.** That's correct.

14 **Q.** And then it goes on to say, "The waiver suspends the  
15 80 percent usage requirement for these 53 slots during the  
16 construction period."

17 And then I want to read the -- I'm sorry; did I  
18 read that correctly?

19 **A.** You did.

20 **Q.** Okay. And then the last sentence says, "This will lessen  
21 overall capacity in JFK thereby improving the operational  
22 performance of the airport during construction. It also  
23 allows American Airlines to reduce capacity in  
24 poor-performing markets and redeploy 7 aircraft to other hubs  
25 during the summer 2019 schedule."



1 Did I read that correctly?

2 **A.** You did.

3 MS. SWEENEY: Your Honor, at this time I have no  
4 further questions for the witness.

5 THE COURT: All right.

6 MS. SWEENEY: Thank you, Mr. Raja.

7 THE COURT: Cross-examination.

8 MR. WALL: Yes, Your Honor. Thank you.

9 We'll distribute the binders here.

10 THE COURT: Sure.

11 **CROSS-EXAMINATION BY COUNSEL FOR AMERICAN AIRLINES**

12 BY MR. WALL:

13 **Q.** Good afternoon, Mr. Raja.

14 **A.** Good afternoon.

15 **Q.** We've got a lot we want to talk about, but before we get  
16 to sort of what we had planned, let me ask you just a couple  
17 quick questions to follow up on Ms. Sweeney's examination.

18 Mr. Raja, if you wanted to know what American  
19 Airlines' growth plans were for a particular region or route,  
20 is there something in the nature of a periodic network plan  
21 that you could consult?

22 **A.** Yes, there is. For better or worse, in our business, it  
23 changes with great frequency.

24 **Q.** But there's something formalized out there?

25 **A.** Yes.

1     **Q.** You wouldn't have to search your e-mails for what you  
2 might have said to a pilot about that, would you?

3     **A.** No.

4     **Q.** Or an exchange with an airport operations person about  
5 staffing levels?

6     **A.** No. None of that is official.

7     **Q.** Or an e-mail telling your head of northeast corporate  
8 sales to swing the bat?

9     **A.** Yeah, correct.

10    **Q.** Is American's growth plan for any market normally  
11 characterized a "bat swinging"?

12    **A.** No.

13    **Q.** Okay. Do you know, sir, of any regular course American  
14 Airlines network planning documents that, in the year or two  
15 prior to the onset of COVID, established a plan to grow  
16 Boston to 140 departures over any time period?

17    **A.** No.

18    **Q.** Over 120?

19    **A.** There were documents, but they never became a plan. We  
20 might have gotten close, somewhere out there, to try to  
21 figure out how we qualify for gates.

22    **Q.** When you actually come up with a network plan, do you  
23 prepare some sort of evaluation of the resources required to  
24 make it a reality?

25    **A.** Absolutely.

1 Q. Okay.

2 A. And the financial viability of those resources too.

3 Q. Okay. Do you know of any regular course American  
4 network -- American Airlines network planning documents that,  
5 in the year or two prior to the onset of COVID, establish a  
6 plan to grow New York by more than whatever the capacity  
7 increase is that you get by swapping out the 50-seat regional  
8 jets with 65- or 76-seat regional jets?

9 A. No.

10 Q. Do you think that swapping out 50-seat regional jets with  
11 65- to 76-seat regional jets would have any material impact  
12 on your relevance issues in New York?

13 A. Not at all. That's why we did the NEA.

14 Q. Do you think that adding five to ten new departures out  
15 of Boston would have any material impact on your relevance  
16 issues in Boston?

17 A. None at all. That's exactly why we did the NEA.

18 Q. Let's pull up the document that counsel has been talking  
19 about quite a bit, which is DX89-B. And if you could, when  
20 you get that up, please go to slide 17, which is the one that  
21 has the Bates stamp that ends in 1663.

22 A. I'm there.

23 Q. Okay. So this was discussed with Ms. Sweeney, and it has  
24 this three-part classification of the OD types according to  
25 AA only, legacy only, and LCC/ULCC, right?

1     **A.** Correct.

2     **Q.** Now, looking at the AA-only line, I notice that it says  
3     that that constitutes 33 percent of ODs, but 13 percent of  
4     passengers. Do you see that?

5     **A.** Correct.

6     **Q.** And the three examples all involve a hub in a smaller  
7     city. Do you see that?

8     **A.** Correct, yes.

9     **Q.** Is that typical of the markets that are AA only?

10    **A.** Yeah, almost categorically. One of those two things is,  
11    typically, one of the smaller cities in the country.

12    **Q.** And do -- and are those typically markets, then, that  
13    either connect to or at least through one of your hubs?

14    **A.** Almost every single time.

15    **Q.** Okay. Now, if we go down to the next category, which is  
16    the legacy only, that is 58 percent of domestic ODs, but  
17    19 percent of passengers, right?

18    **A.** Correct.

19    **Q.** Okay. Now, is there any way that you can characterize  
20    for the Court the O&Ds that tend to fall in this category?

21    **A.** Yeah, they're usually -- one side or the other is usually  
22    a large city like New York City or Atlanta or something like  
23    that. And the other side of the city is a meaningfully  
24    populous US city, but not as big -- Birmingham, Santa Fe,  
25    Pittsburgh, Rochester -- a different scale of population,

1 economic growth, things like that, than Fayetteville,  
2 Arkansas, or, you know, Stillwater, Oklahoma.

3 **Q.** But the definition of that is that more than one legacy  
4 carrier -- possibly all legacy carriers -- has decided to  
5 serve that route?

6 **A.** Correct.

7 MS. SWEENEY: Objection. Leading.

8 THE COURT: You can do it, but not too much because  
9 he's sort of -- is your witness. It's cross, so there's some  
10 latitude, but -- I'm not going to sustain the objection,  
11 but --

12 MR. WALL: Okay.

13 THE COURT: Plus he knows more about the airline  
14 industry than you.

15 MR. WALL: I take that very personally, Your Honor.

16 THE COURT: Well, let's put it this way.

17 THE WITNESS: I take it as job security.

18 MR. WALL: Thank you.

19 BY MR. WALL:

20 **Q.** Okay. Let's go to the last category, the LCCs and the  
21 ULCCs. And so -- so what's going on there where you have  
22 9 percent of ODs and 68 percent of the passengers? What's  
23 the phenomenon that explains that?

24 **A.** Well, these are simply the largest markets in the  
25 country -- Denver to Los Angeles, Chicago to New York, things

1 like that -- that they don't -- we don't -- they don't  
2 constitute a very large number of O&Ds, but that's where  
3 everybody lives or everybody wants to go.

4 **Q.** Is -- have you made any observations in the course of  
5 your career about what LCCs and ULCCs do in terms of the  
6 kinds of routes that they target for --

7 **A.** Absolutely. They go to the absolute biggest markets that  
8 are there. In places like Lawton, Oklahoma, there's just not  
9 that much demand. And what the customer in Lawton, Oklahoma,  
10 values is connectivity to a lot of places. In Lawton, we  
11 compete with the amount of money it costs them to drive to  
12 DFW or Oklahoma City or whatever the next biggest airport is.

13 But in these places -- Denver to LA, Boston to  
14 Las Vegas, what have you -- they're huge markets. And at  
15 peak times, there's a lot of demand, and if you're a carrier  
16 that's one of these that flies primarily point to point,  
17 that's how you make a living.

18 **Q.** In this chart, as counsel pointed out earlier, JetBlue is  
19 listed in the LCC/ULCC row, right?

20 **A.** Correct.

21 **Q.** Okay. So in that -- would that imply that the nonstop  
22 overlap routes that the Department of Justice is focusing on  
23 in this case would also be in that same categorization?

24 **A.** I would say it depends, but -- some of them potentially  
25 could, but many of those we've carved out, otherwise.

1     **Q.** Well, but take, for example, something like Boston to  
2     Los Angeles. Who are the competitors on Boston to  
3     Los Angeles?

4     **A.** Oh, everybody in America is a competitor on Boston to LA.

5     **Q.** But the names the ones --

6     **A.** Delta. United is a competitor in Boston-LA, even when  
7     they connected over one of their hubs. Southwest will be a  
8     competitor. They can connect at one of their hubs.  
9     Literally every carrier in America make Boston-LA. We  
10    compete with all of them.

11    **Q.** JetBlue?

12    **A.** JetBlue does to in Boston-LA.

13    **Q.** So that route would then fall within that third row?

14    **A.** Absolutely, it would. Yes.

15    **Q.** Okay. Thank you, sir.

16               Now, I want to back up a bit to this time that you  
17    were promoted to the position of senior vice president of  
18    strategy in October of 2019. And Ms. Sweeney talked to you  
19    about that. Did you have a predecessor in that role?

20    **A.** Not quite. It was a role that was -- that was pieced  
21    together from other things. The closest person who did it  
22    before was Devon May, but he had some different duties too.

23    **Q.** How did you end up in that role with that set of  
24    responsibilities?

25    **A.** I advocated for it.

1       **Q.** Why?

2       **A.** Well, look, so much of the strategy of the what are the  
3 now the three network airlines -- AA, Delta, United -- was  
4 based on building big networks, building big, national  
5 networks that --

6       **Q.** Doing what? I'm sorry. Say that again. I couldn't --

7       **A.** So much of the strategy of the three big network  
8 carriers -- Delta, American, United -- was building big  
9 national networks through mergers from much smaller ones.

10               And what happened after the AMR-US Airways merger  
11 it that our company -- that we had completed a merger. We  
12 had been falling behind on every objective measure, right?  
13 We -- our margin growth was not keeping pace with the other  
14 ones. Our customer satisfaction scores were behind. Our  
15 revenue performance wasn't growing at the same rate. And I  
16 felt it was time that we needed to have what we call a  
17 "postmerger vision" for the airline.

18               And it was really a pretty simple one, which is the  
19 north star's -- figure out what our customers want and then  
20 how do we go and engineer ourselves around that? And if we  
21 can do that really well, indeed, that could be -- it could  
22 improve our financial performance.

23       **Q.** Okay. I want to show you Plaintiffs' Exhibit 120.

24       Again, this is a version that's been redacted for  
25 confidentiality. You were shown this earlier. And I think



1     you'll -- as you'll see, there's a cover e-mail asking for a  
2     copy of a board deck, and then the rest is -- is a board deck  
3     that we've seen earlier.

4     **A.**   Correct.

5     **Q.**   Okay. Now, how was it that you came to present a board  
6     strategy deck in October of 2019?

7     **A.**   Well, I'd just been promoted to do a job to lead the  
8     company's strategy, and the board want to hear my thoughts,  
9     and I wanted to share them.

10    **Q.**   And did you prepare the presentation here to do so?

11    **A.**   Correct.

12    **Q.**   Okay.

13    **A.**   That's right.

14    **Q.**   So why don't we go ahead and first show up the title page  
15    of the -- of the -- of the slide. "The Future is Now:  
16    Growing Our Global Advantage." What are you referring to by  
17    the phase "the global advantage"?

18    **A.**   To expand the utility of our network to make it more  
19    comprehensive for our customers.

20           MR. WALL: Can we just -- page 4, to the next  
21    slide, please. And blow that up a little bit more, if you  
22    could. Nope, nope. You had it. And just blow that up so  
23    it's more visible on the screen.

24    BY MR. WALL:

25    **Q.**   Okay. This slide, if you could just read this slide out

1 loud, not the speaker's notes, but slide itself?

2 **A.** Sure. "When we make more and are better O&Ds" --  
3 origin/destinations -- "than our competition, we create  
4 unique value for our customers. Our strategy is to offer a  
5 global network that creates increasing value to customers."

6 **Q.** Can you explain what you were intending to convey, to the  
7 Court, with those thoughts?

8 **A.** Yeah. The more origin and destination markets we make  
9 for our customers, the more they like us and fly us.

10 **Q.** Why do both bullets incorporate the idea of customer  
11 value?

12 **A.** Because that's the north star. This -- this, as much as  
13 anything, was certainly what I was behind and trying to  
14 advocate for the role and what I wanted to make really clear  
15 to everyone that -- because this is our north star for  
16 everything that we do.

17 And then it's a -- what we still do to this day.  
18 Our -- for us to work, customers have to actually go and  
19 value this big network that we've built. And we compete by  
20 offering a ton of O&Ds that are out there. What the rest of  
21 this starts to get into is how do we go and create more  
22 utility for customers, sometimes in place where our network  
23 can't touch on its own?

24 **Q.** Okay. In the speaker's notes, there is a reference there  
25 to "expanding our domestic advantage through consolidation

1 and partnerships." What's the distinction that's drawn there  
2 been consolidation and partnerships?

3 **A.** Well, actually -- the operative word here is actually the  
4 "and." For us, keep in mind for where we've been. We've  
5 thought of all network development as a series of  
6 consolidations. And what so much of this document is, in  
7 fact, so much of what we covered earlier too, is this thing  
8 that is partnership can create the utility for the customer  
9 of consolidation.

10 What we've got to figure out is how do we actually  
11 make that work? What does that look like for us? And so  
12 this is actually -- the key thing is through consolidation  
13 and partnerships, the emphasis being the "and," as much as  
14 anything.

15 **Q.** Okay. And then the final bullet in the speaker's note  
16 has using partnership -- partnerships -- excuse me -- in  
17 consolidation to complete the "white spaces" of our global  
18 network. What's that phrase "white spaces" mean?

19 **A.** Those are places that we don't fly to at all -- Southeast  
20 Asia, things like that.

21 **Q.** Okay. Now, if we can turn to slide 37. This is the one  
22 that's titled "Domestic Partnership Opportunities."

23 Okay. So can -- some parts of this that don't deal  
24 with the United States have been redacted for  
25 confidentiality, but can you just describe for the Court how

1     you use this slide with the board and what you were trying to  
2     convey.

3     **A.** Yeah. The slide is, frankly, trying to convey a lot of  
4     things. Its titling is very important. These are domestic  
5     partnership opportunities that are there. And the -- I'll go  
6     left to right.

7             In the case of Alaska, it's to just simply convey,  
8     first of all, the value that's associated with it and then to  
9     give some outline of what the risks are, primarily as a means  
10    of teasing out a conversation, which is there's real utility.

11            American Airlines -- we have very little overlap  
12    with Alaska Airlines up and down the West Coast. There's a  
13    lot of utility to the customer if we can go and offer that to  
14    them. We need to figure out how.

15    **Q.** Under both the Alaska and JetBlue entries, there's a  
16    reference here to "further domestic consolidation." What  
17    does that mean, and why is it in here?

18    **A.** Well, quite frankly, it's on there because if that wasn't  
19    on there, that would be the first question anybody on the  
20    board would ask about. I mean, we've spent 20 years doing  
21    different forms of mergers and things like that. So it's on  
22    there to say, yeah, one of the options that could be out  
23    there is domestic consolidation.

24            What's also -- though one can say it, though, part  
25    of what we were talking about is consolidation is an easy

1 thing to envision, but you've got to have money. The other  
2 person has got to want to take your money. Other people can  
3 go pay more money, and on top of that, there's got to be a  
4 regulatory process.

5 So some of that is addressed also in that risk  
6 column below. But if we didn't write it, it wouldn't be  
7 complete; but there are also a bunch of other things that are  
8 on here too that are all potential -- they can be together,  
9 and they can be apart on how we think about this.

10 **Q.** Since the time that you prepared this and presented it to  
11 the American Airlines board, have you made any efforts at all  
12 to try to acquire Alaska Airlines?

13 **A.** None.

14 **Q.** Have you made any efforts at all to try to acquire  
15 JetBlue?

16 **A.** None.

17 MR. WALL: Let's turn to slide 48, please. And if  
18 we can just bump that one up again, please. There we go.

19 BY MR. WALL:

20 **Q.** So this one is entitled "Partnership Approaches." And  
21 there's a set of categories of partnerships on the left-hand  
22 side. Can you please explain what this is showing and how  
23 you explained it to the board?

24 **A.** Yeah. This is an education about our partnerships.

25 Again, so much of what this deck is, is, indeed, what can

1 partnerships be. And this is educating the partnerships that  
2 we have today as a means of starting to talk about what they  
3 can be in the future.

4 **Q.** Can you briefly explain the various kinds of partnerships  
5 that are depicted?

6 **A.** Yeah. I'll go top bottom. Bilateral partnerships are  
7 just two airlines coming together. And to my earlier  
8 comments, it can be codeshare. That's what marketing one  
9 another's flights are. It can also involve frequent flyer  
10 reciprocity, but there's no pricing or scheduling  
11 coordination. That is a thing that adds a certain level of  
12 value.

13 The next thing is a multilateral alliance, which  
14 is -- essentially, this is Oneworld or SkyTeam, where a lot  
15 of different carriers engage in a series of bilateral  
16 partnerships together.

17 And there's some, as much as anything, back-office  
18 elegance, that you agree to have similar systems. It makes  
19 it easier to link frequent flyer programs and things like  
20 that.

21 The final thing is the joint business. And there,  
22 there's a means of coordinating, scheduling, pricing. It's  
23 usually -- and certainly in all cases of American Airlines  
24 that we know of -- combined with some form of revenue sharing  
25 or gain sharing among the airlines so people are incentivized

1 to go and grow.

2 **Q.** All right. Are these -- is that the type of joint  
3 business arrangement that is typically at issue in these ATI  
4 applications?

5 **A.** That is what's being described here. Correct.

6 **Q.** Okay. So those are the ones that DOT and other  
7 regulators look at?

8 **A.** That's right.

9 **Q.** Okay. Now, it is -- is that what you do with the  
10 Northeast Alliance?

11 **A.** It is not.

12 **Q.** How does it differ?

13 **A.** We do not coordinate pricing, and we've never made a  
14 joint investment decision together other than buying a couple  
15 of buses for JFK.

16 **Q.** We'll get to the buss at JFK later. Thank you.

17 So in -- and there's no application for antitrust  
18 immunity with respect to the NEA, is there?

19 **A.** There's not.

20 **Q.** Okay. Now, what impact --

21 THE COURT: I was wondering why you don't get them  
22 immunity. Then you wouldn't be here.

23 MR. WALL: It would be so much easier, now and in  
24 the future.

25

1 BY MR. WALL:

2 Q. What impact on competition have you observed from these  
3 joint venture-like, immunized partnerships around the world?

4 A. Everyone drives competition.

5 Q. Can you explain that?

6 A. It changes in different forms and fashion. I can explain  
7 it in maybe a couple ways. First, the transatlantic joint  
8 ventures -- ourselves, Delta, United -- each have a  
9 transatlantic joint venture. Since the time of those joint  
10 ventures, there's probably been a greater proliferation of  
11 long-haul, low-cost carriers -- take Norwegian Airlines,  
12 premium airlines, alternative business models, different  
13 routings, such as using Canada as a transit point for going  
14 to Europe. The nature of the competition changed.

15 Similarly, we did a partnership with Qatar. A few  
16 years later, United did one with Emirates. Almost every  
17 response, it just changes the nature of the competition  
18 that's there.

19 Q. Thank you, Mr. Raja.

20 Now, after this October board meeting in 2019, did  
21 you thereafter go about trying to see if you could create  
22 some of these domestic partnerships?

23 A. Yes.

24 Q. And Alaska was the first one, right?

25 A. Correct.



1     **Q.** Can you describe what the West Coast International  
2     Alliance is?

3     **A.** Maybe the simplest way to think of it is it's a version  
4     of one of these international-style joint ventures, only  
5     instead of its demarcation point being the Atlantic ocean,  
6     it's Seattle.

7     **Q.** It's Seattle, you said?

8     **A.** It's Seattle. So it's our international -- we wanted to  
9     fly an international network from the West Coast. We've  
10    always struggled with that. Alaska wants to have an  
11    international network. They don't even know the airplanes  
12    to be able to do it.

13                 And so the idea is how do we create a mutual  
14    incentive for us to work together so that we can access the  
15    connectivity of their domestic system, they can get the  
16    benefits of an international system?

17    **Q.** So at the time that you took over as the senior vice  
18    president of strategy, did American Airlines have any kind of  
19    partnership arrangement with Alaska?

20    **A.** We did, but we were winding it down. It's -- it was in  
21    its final days.

22    **Q.** What -- what was it that you were winding down?

23    **A.** It was a codeshare and a frequent flyer program.

24    **Q.** Did it have any revenue sharing?

25    **A.** None whatsoever.

1       **Q.** Okay. And why were you winding it down?

2       **A.** Well, frankly, for a set of reasons which I certainly no  
3 longer subscribe to, but there wasn't really a lot of  
4 incentive. It's true there wasn't a lot of incentive for  
5 these two companies to go and work together.

6               But there was a lot of thinking where we were  
7 trying to figure out just simply how we take more passengers  
8 going to the West Coast instead of first thinking about,  
9 like, what does the customer want, and then how should we  
10 arrange a partnership that makes so much sense since we --  
11 we're small on the West Coast. We want to fly long-haul, and  
12 they have a domestic network that can handle it.

13       **Q.** So if this thing was winding down, why did you decide to  
14 try to reestablish some form of partnership with Alaska  
15 Airlines?

16       **A.** Because it makes customer sense. I mean, you look at the  
17 West Coast, there's -- the -- Delta and United both have a  
18 much larger presence than us there. Delta has grown in  
19 Seattle. Even Southwest Airlines, intra-California, in many  
20 cases, is bigger than what Alaska is.

21               And so instead of looking at this as seeing  
22 everybody there as a competitor, it's really, hey, if we  
23 could go and work with Alaska Airlines, we can be together a  
24 much better competitor, much like what we see in the  
25 transatlantic JVs. We can put real competition on people

1       like United and Southwest.

2       **Q.**    Could we please take a look at Defendants' Exhibit 22?  
3       It's already been admitted into evidence. Do you recognize  
4       this document, Mr. Raja?

5       **A.**    Yes, I do.

6       **Q.**    And the date of the document is November 24, 2019. What  
7       is this?

8       **A.**    This -- this is my note to the -- our working team about  
9       how to both conceive of our work with Alaska and to start to  
10      actually go about the modelling and analyzing of what we were  
11      trying to do.

12      **Q.**    Who are the various people to whom you sent this?

13      **A.**    Sure. Henning Greiser was in charge of our international  
14      route planning. Don De Bona and Neil Watson both did joint  
15      venture analyses. And the three people on the copy line were  
16      all our managing directors in our alliance system at the  
17      time.

18      **Q.**    Now, at the top of the e-mail, it says, "Do not forward."  
19      What's -- what's that about?

20      **A.**    It was, frankly, about where we were culturally at the  
21      time. The idea of -- we were winding down Alaska. People at  
22      American didn't want to go and do Alaska, and we were all --  
23      this group needs to conceive of this thing differently than  
24      how we've thought of things before.

25                So I didn't, frankly, want these people to go and

1 send this around; otherwise, the idea would never get off the  
2 ground.

3 **Q.** So it says here, "As a reminder, the objective is to  
4 create a domestic/international West Coast network that is  
5 seamless for customers in which we are both financially  
6 incentivized to grow. Just like a JV, this should result in  
7 more new services, a more competitive network versus Delta  
8 and better choices for customers," end quote.

9 **A.** Exactly.

10 **Q.** Why did you say that? In other words, why were those the  
11 objectives?

12 **A.** Because we've realized that every time we do that, when  
13 we build a better network for customers, it works for us. As  
14 we like to say, the network is the product. What customers  
15 fundamentally buy is a more comprehensive network; and when  
16 we're able to deliver that to them, it really works.

17 And in these other JVs that we have, look, in the  
18 transatlantic joint venture, that's a place where we had a  
19 codeshare with BA before it; but after we had -- after we  
20 started thinking of it in a JV where we could do capacity  
21 coordination and then revenue sharing, our services grew.

22 We were flying to places like Austin to Heathrow  
23 that we had never thought before. Our customers liked it a  
24 whole lot more. We were having more people sign up for our  
25 loyalty program. We enrolled more corporate accounts, and we

1 made money.

2 But in other cases where we had code, we didn't.  
3 In the case of Alaska before, it wasn't like that. And so it  
4 was, look, the idea of being seamless for our customer and  
5 having a financial incentive to grow has to be the same thing  
6 in how we think about this.

7 **Q.** Okay. Thank you.

8 Let's take a look next at Defendants' Exhibit 35,  
9 which has already been admitted. This is another one that's  
10 been redacted for confidentiality, and we'll put the redacted  
11 version up on the screen.

12 Do you recognize this document, sir?

13 **A.** I do.

14 **Q.** At least you will once it's up -- I guess you have it in  
15 your book.

16 **A.** "Our network strategy" is in front of me in this right  
17 now.

18 **Q.** Okay. So this is a deck that is -- it is not just about  
19 the WCIA, but it references the WCIA among other  
20 partnerships, right?

21 **A.** Yes.

22 **Q.** And did you present this deck?

23 **A.** I did.

24 **Q.** Okay. Please take a look at slide 4. Now, this is very  
25 similar to something we saw earlier. And it has the

1 potential domestic alliances. And I noticed that the --  
2 the -- on both, under the Alaska and JetBlue columns, the  
3 phrase about "further domestic consolidations" is no longer  
4 there, right?

5 **A.** Correct.

6 **Q.** Why not?

7 **A.** Because our thinking had evolved. You know, before, we  
8 were trying to think about how could a partnership create --  
9 I lost it on the screen -- how could it create that kind of  
10 utility. And at this point, we were starting to zero in on  
11 something where a partnership can go produce that -- that  
12 kind of benefit.

13 **Q.** All right. Let's take a look at slide 5, if you could.  
14 And this is a description of what's called the "Alaska  
15 partnership construct," right?

16 **A.** Yes.

17 **Q.** Can you please just walk us through each of the steps in  
18 the slide and explain the relationship that they have to  
19 what's labeled as customer benefit on the right-hand side?

20 **A.** Yeah. Absolutely. The idea that we were going through  
21 with Alaska was, okay, how do we envision this thing  
22 differently, knowing that we couldn't -- this was -- build it  
23 all at once.

24 And so the first step was -- all right. We call it  
25 "rehabbing the relationship." Let's start doing codesharing.

1 Let's make sure the economics make sense, but as much as  
2 anything, design it in such a way where let's think, how do  
3 we make the customer have the benefits of a bigger network?  
4 And if that's our north star and not how we go and split the  
5 money, what does that turn into?

6 Step two is then create the -- what would later be  
7 the West Coast International Alliance. And this idea is, all  
8 right, we take AA international flights into the major cities  
9 in the West Coast. Somehow we put in the Alaska domestic  
10 flights. We share the revenue so that they're incentivized  
11 to go help our long hauls. we're incentivized to go help  
12 their domestic system.

13 And then step three of it is, okay, now the real --  
14 once you have that, you have a compelling customer network on  
15 the West Coast, international, domestic, like that becomes  
16 the best West Coast network.

17 So, now, how do we go and start thinking about  
18 frequent flyer benefits, corporate dealing, things like that,  
19 when we've actually got a good product?

20 **Q.** Okay. Why revenue sharing? Why do you have to have  
21 revenue sharing to make that particular partner construct  
22 work?

23 **A.** So that our incentives get aligned.

24 **Q.** Right. Explain that.

25 **A.** Well, look, without something like a revenue share in

1 West Coast international, our flights are going, but they  
2 have no real -- like, they want to make their domestic  
3 flights work, but that doesn't necessarily mean they'll make  
4 the international flights work.

5 So it could lead to simple things where, you know,  
6 you'll time flights out of Seattle for people who go to and  
7 from Seattle, not people connecting to China or Asia or  
8 things like that. But when they have a financial incentive,  
9 they -- like, Alaska spends as much time, and you can see it  
10 in their schedules, thinking about how they go and connect to  
11 our Seattle-Heathrow flight as they connect into their own  
12 Seattle hub.

13 Similarly for us, we want to go and make sure that  
14 the West Coast network is strong. So, like, we've deployed  
15 more resources in our sales team there, more people signing  
16 up for the credit card program, the frequent flyer program,  
17 because we both have the incentive to work together to get a  
18 customer away from Delta/United.

19 **Q.** Now, the point has been made by the plaintiffs that there  
20 is no revenue sharing on domestic overlap routes in the West  
21 Coast International Alliance. Are there any overlap routes  
22 at all in the West Coast?

23 **A.** Well, we don't fly to most of those places. I mean,  
24 DFW-Seattle, Phoenix-Seattle. There's not that many routes  
25 that overlap.



1     **Q.** Right. And some of the overlaps there might be are  
2     subject to a consent decree?

3     **A.** Indeed.

4     **Q.** From a prior merger?

5     **A.** From Alaska's prior merger, correct. There's a few  
6     routes that overlap, for example, out of Los Angeles, but  
7     we're not allowed to partner on them.

8     **Q.** Okay. Now, the two columns here, "Key Features" and then  
9     "Customer Benefit," are those supposed to be linked in  
10    somehow -- somehow?

11    **A.** Absolutely.

12    **Q.** And what is the linkage, as you see it, between revenue  
13    sharing and consumer benefit?

14    **A.** Well, look, the whole idea is the more in which we share,  
15    the more we create a more comprehensive network for our  
16    customers. It isn't to be pedantic about it or anything, but  
17    it is as simple as it sounds. Our system is best when we  
18    offer more O&Ds for customers because they value it. They  
19    can get to more places. And so the way that we do that  
20    financially with one another is through revenue sharing.

21    **Q.** Thank you, sir.

22               Is the West Coast International Alliance in  
23    operation today?

24    **A.** It is. Thriving.

25    **Q.** How is it going? How is it going?

1       **A.** Great.

2       **Q.** Can you elaborate?

3       **A.** Yeah, absolutely. In fact, it's -- it's surprised me in  
4 very positive ways. Even though COVID happened -- we  
5 originally had a plan to be able to fly to Bangalore, a city  
6 in Asia, and London Heathrow. COVID changed a lot of those  
7 plans.

8               But we still have the Heathrow route. Alaska is  
9 now a 35 percent of our Seattle Heathrow on boards, and, you  
10 know, for -- the benefit of people here, you know, in our  
11 system, a long-haul flight is negative 5 to 5 percent fully  
12 allocated margins. So --

13       **Q.** Say that again, please?

14       **A.** A long-haul flight is negative 5 to 5 percent fully  
15 allocated margins.

16       **Q.** So negative 5 to positive 5?

17       **A.** Positive 5. So these guys are -- the last time I looked  
18 at it, 34½ percent of our on boards on Seattle-Heathrow --  
19 these guys, Alaska -- so that flight wouldn't exist  
20 without -- without Alaska.

21               But we've also seen its benefits in domestic, like,  
22 in cities like Austin. By doing things, like, thinking about  
23 it through the lens of how do we go create, like, the biggest  
24 consumer product that we can, it's opened our eyes to a lot  
25 of different things.

1           The only city -- like, we expanded codeshare --  
2       I'll elaborate on that, having said it. So one of the things  
3       we did early on is we codeshared on Austin to Alaska's West  
4       Coast services and that might not sound like a very big deal,  
5       but for American Airlines, in the traditional way of  
6       thinking, that's huge, because historically Austin to DFW is  
7       the largest flow markets in -- in the DFW hub and people fly  
8       that and they connect on to Asia Pacific.

9           And historically, we never codeshared with Alaska  
10      on Austin to the West Coast because we were worried that  
11      happen people would come off of Austin to DFW to Asia and fly  
12      Austin to Seattle and now that they were in one world, on  
13      another carrier to Asia, but we put our code on all of those.

14          The four routes that we have are -- or four of our  
15      five biggest codeshares markets on Alaska but what we also  
16      found was then a second order benefit which was huge, too,  
17      because when we did that, indeed, they came off of Austin to  
18      DFW.

19          But we were able to go and fill Austin to DFW with  
20      other customers. Austin to DFW is still one of our most  
21      profitable markets out of Austin and Dallas. So in effect,  
22      we grew DFW, without having to build another gate or do  
23      anything in an infrastructure challenge business.

24          The third order benefit was it got so good that,  
25      for the first time, certainly in the last 10, 15 years that

1 I've been around, we started flying point-to-point flights  
2 out of Austin. So we fly Austin-Memphis, Austin-Vale,  
3 Austin-Nashville, Austin-Costa Rica. We're the largest -- we  
4 market the largest airline network in Austin, Texas, today.  
5 And that was all the through that.

6 Like, when we started the WCIA, if you had told me  
7 that we would be doing that, I wouldn't have believed it, but  
8 we see more opportunities for that.

9 **Q.** Thank you, Mr. Raja.

10 THE COURT: Is that -- is it WCIA?

11 THE WITNESS: Correct.

12 THE COURT: How much of that is Austin is a  
13 different place today than it was 15 years ago?

14 THE WITNESS: Oh, a lot of it is. But that's the  
15 thing; there's more and more of those cities that are out  
16 there and without saying --

17 THE COURT: So the market is changing, and you're  
18 changing with it?

19 THE WITNESS: Absolutely. And for us, right -- so  
20 take a hub like DFW; like, infrastructure for us is a real  
21 thing. We didn't actually shove another flight into DFW in  
22 the peak times. We can go and build more facility there;  
23 well, that facility won't come online until 2027, or  
24 something like that, if we do it.

25 So right now there's a real opportunity. We can't

1 go and grow, but through things like this, it's opening our  
2 eyes to different ways where we can go and do growth.

3 So we -- we say it colloquially that partnerships  
4 mean growth for us, because it always starts -- it's a  
5 network business. And we can always find a way, once we  
6 create more connections, to go and add more flights.

7 THE COURT: So those Austin to Seattle long-haul  
8 flights are people connecting in Seattle to your flights  
9 overseas?

10 THE WITNESS: Or in some cases, to other Oneworld  
11 partners. So a lot of Austin-Seattle is people just flying  
12 Austin-Seattle. In some cases, it's people flying Austin to  
13 Seattle on to Seoul.

14 THE COURT: In another codesharing --

15 THE WITNESS: On another codeshare to Tokyo-Narita,  
16 to one of those plays, too, which is fine because they're all  
17 part of the Oneworld alliance.

18 And what's happened to us, is those customers  
19 have all become --

20 THE COURT: You want them in the ecosystem.

21 THE WITNESS: Correct. They all join our frequent  
22 flyer program. And what we find is once you join our  
23 frequent flyer program, our relationship with you changes  
24 materially.

25 So -- you know, so this -- and the NEA, too, for

1 that matter, has opened our eyes to different ways of  
2 thinking about it. But that's where I say we're strident in  
3 this belief. And I know it's super simple that if you give  
4 people a bigger network, they have a reason to come fly you.

5 BY MR. WALL:

6 **Q.** Thank you, sir.

7 Let's switch over to the Northeast. So as sort of  
8 a transition, did the arrangement that you were able to work  
9 out with Alaska have any influence on your thinking about  
10 what you might be able to do in the Northeast?

11 **A.** Very much so.

12 **Q.** So let's talk about how they came about. You -- what was  
13 your role in the formation of the NEA?

14 **A.** I started to conceive of it. I -- I started to pitch the  
15 idea to Scott Laurence, and he developed it from there. So  
16 I'll call it one of its progenitors and then its lead  
17 negotiators later on.

18 **Q.** And Scott Laurence was at JetBlue at that time?

19 **A.** That's correct.

20 **Q.** Okay. Now, let's talk about New York first. The Court  
21 has already heard quite a bit of testimony about the  
22 competitive conditions in New York, so I want to truncate  
23 this. And I would just ask you to very briefly summarize  
24 your perspective from this -- from this late 2019/early 2020  
25 pre-COVID perspective about the competitive environment in

1 New York and American's place in it.

2 **A.** Sure. I'll touch on some of the things that came up  
3 earlier, of course, but for us in New York, I mean, the way I  
4 described it in times past is we were too small to succeed  
5 and too big to exit it. Because we were 300 departures, 400  
6 departures smaller than United at Newark. We're more than a  
7 100 departures smaller than each of JetBlue and Delta at  
8 Kennedy, and let's call it 150-ish flights smaller than Delta  
9 at LaGuardia. So we were just shifting for -- at least my  
10 almost 20 years at the company, 18 years at the company, from  
11 one marginal New York strategy to the other. And I would  
12 describe none of them as getting us better. They were just  
13 sort of getting by, whether it was upgauge out of the RJs or  
14 focusing on places to New York.

15 Now, New York -- I say all of this because it begs  
16 the very obvious statement: Well, why don't you just go grow  
17 in New York? We would love to be able to go grow in  
18 New York. The reality is it's limited. The biggest  
19 limitation, its critical path, is slots. You just can't get  
20 any more slots.

21 Newark, too, it's not easy to go get any more  
22 gates. There's -- not very many people have been able to go  
23 and operate out of Newark for that reason, either.

24 So we realized that until we can do something  
25 different and think about this problem differently, we

1 couldn't credibly compete with Delta and United. And  
2 frankly, Delta and United didn't have to work too hard to  
3 compete with us.

4 But we realized we weren't alone. JetBlue had a  
5 version of the same problem.

6 **Q.** So we'll get to that in a second, but there's just one  
7 thing I just need to cover, is the suggestion has been made  
8 in this case that you don't actually compete with the  
9 New York flights that United Airlines offers from Newark. Is  
10 that true?

11 **A.** Absolutely -- that's false. We absolutely compete with  
12 United Airlines at Newark.

13 **Q.** Why do you say that?

14 **A.** If they lower a price, we match their price and they  
15 compete with us, too. It's just we're at much less level of  
16 scale, but we compete for corporate accounts. We compete for  
17 frequent fliers. We compete for -- on pricing. We compete  
18 for -- you know, even for gates at Newark Airport isn't easy  
19 to get ahold on to. We compete with them in every possible  
20 way we can at Newark.

21 **Q.** So how were United and Delta able to achieve the larger  
22 scale that they had at Newark?

23 **A.** The strange history of the airline business, which isn't  
24 to be flippant in my answer, but it's that through the legacy  
25 of consolidation mergers, things like that, United ended up



1 with a massive hub in Newark. In the post 9/11 era, Delta  
2 was able to grow at a time when New York was kind of lightly  
3 slotted.

4 **Q.** And what's the significance of growing when it was  
5 -- what did you say?

6 **A.** It was -- after.

7 **Q.** When it was lightly slotted?

8 **A.** Yeah, after 9/11 happened, there wasn't -- say a lot of  
9 flight capacity going into New York, and I'll call about the  
10 2005 era, both JetBlue and Delta grew. American Airlines did  
11 not.

12 They added more slots in JFK. Later on Delta  
13 Air Lines and US Airways group did a transaction, and Delta  
14 got a lot bigger in LaGuardia. The US Airways group got a  
15 lot bigger in DCA, and now here we are, the products of all  
16 of that.

17 **Q.** Okay. There's been some -- some testimony already in  
18 this case about an airline industry concept called  
19 "relevance." Are you familiar with that?

20 **A.** Sure.

21 **Q.** Can you give us your perspective on what that means?

22 **A.** Yeah. I would -- I guess I would say it pretty simply,  
23 that you can have the very best product in New York to  
24 Las Angeles, but if you can't fly somebody to Toronto or  
25 Paris or Raleigh, at some point, they stop flying you to

1 Los Angeles. And that's what we lacked in New York, right?

2 Q. And why didn't you just become more relevant?

3 A. We couldn't.

4 Q. Why?

5 A. Well, the only way to get the slots were from the others.

6 We couldn't go and do that. We couldn't organically grow.

7 We've done that in places like DFW or Miami or Phoenix, but  
8 we just simply can't do that in New York.

9 Q. Wouldn't it be a solution to just fly bigger planes than  
10 you fly?

11 A. Well, bigger planes don't expand our relevance, right?  
12 For example, this was what I was mentioning earlier in  
13 northwest Arkansas. We can put it all on 75-seat airplanes  
14 and fly it three times a day. That's great. That means  
15 something else is not going to fly as much. It's not going  
16 to fly as competitively as the Delta Air Lines network. So  
17 bigger airplanes, yeah, you can have more seats on a given  
18 market, but you're not adding more markets.

19 When we -- through these decks, if we use this word  
20 "comprehensiveness," it really means, on the one hand,  
21 breadth -- I'm sorry -- being able to fly to more places, and  
22 depth, having a lot of different -- a service pattern, a  
23 number of flights within a market. Relevance or  
24 comprehensiveness is those two things, and we lack that in  
25 New York.

1 Q. Okay. Sir.

2 THE COURT: When you say -- one question about  
3 this.

4 MR. WALL: Yeah.

5 THE COURT: When you say that, you know, somebody  
6 in New York -- you don't fly, say, New York to Toronto, and  
7 they fly New York to LA and New York to Toronto, and  
8 eventually they give up on you on New York to LA. Is that  
9 because -- why is that? Or does that depend on the kind of  
10 customer they are?

11 THE WITNESS: Well, it can depend on the type of  
12 customer they are, but the customers whom we're most after --  
13 and I'm talking about, like, the actual -- the flying human,  
14 not the transaction -- is somebody who is a power traveler.  
15 They fly us for business. They fly us for leisure. They  
16 join our loyalty program. They want to --

17 Because once you join our loyalty program, it's an  
18 indication that you want to travel. You're more likely to  
19 buy business class when you fly to Rome. You're more likely  
20 to want to earn miles or spend on our credit card, buy access  
21 to our lounges and things like that.

22 So we consciously have a high-end product tailored  
23 to a power user of it. So if we can't offer more product  
24 more network --

25 THE COURT: And speaking of the frequent flyer,

1 they're going to skip you for LA?

2 THE WITNESS: Correct.

3 THE COURT: The frequent -- is -- so not people in  
4 your program, but people who fly a lot, who will then  
5 become --

6 THE WITNESS: Exactly. That's exactly the right  
7 way to think of it. And so for that reason, like what we  
8 found in New York was --

9 THE COURT: But the New York to LA market must be  
10 filed with a lot of people besides -- I mean, you have more  
11 nonbusiness class seats than business class seats.

12 THE WITNESS: Yes. Yes. Now, this is a concept  
13 that we call being a "spill carrier." So earlier when Dan  
14 was asking about these LCC markets, that O&D grouping,  
15 there's a ton of markets, especially in New York, which are  
16 really big.

17 And if you fly seven times a day from New York to  
18 Raleigh-Durham, you capture a lot of those higher end  
19 customers, because a lot of those higher end customers  
20 realize that I can get to the airport early. I want to take  
21 the five o'clock, not the seven o'clock. But the spill  
22 carriers want to disproportionately fly at 8 a.m. or 6 p.m.  
23 because that's when all the demand is.

24 And, really, it's -- you know, if Delta Air Lines  
25 has seven of those flights, they still only have 150 seats on

1 the 6 o'clock, and so if you fly at the 6 o'clock, you can  
2 capture whatever is left over.

3 Well, what's left over is not the customer you just  
4 described, a frequent traveler, but a more marginal traveler.  
5 Somebody who is doing it once a year, twice a year. And for  
6 us, like, a huge amount of the success and profitability of  
7 our company is attracting the power user of our product, less  
8 so the marginal user of our product.

9 So that's why relevance matters so much. And  
10 indeed in New York, we find this, you'll see it in the  
11 documents, like, we would -- no matter how much we might go  
12 and give more genius frequent flyer benefits, we've spent  
13 billions on lounges and on products and on things like that,  
14 nothing made up for the network deficiency. So . . .

15 THE COURT: For those kind of customers.

16 THE WITNESS: For those -- for that target  
17 customer.

18 THE COURT: All right.

19 THE WITNESS: And for us, I mean, so much of our  
20 cost structure, everything, is built around that.

21 THE COURT: Go ahead. Thank you.

22 MR. WALL: Sure. Thank you.

23 BY MR. WALL:

24 Q. Okay. Let's -- hold on just one second here.

25 Okay. I'm just going to ask you this, this same

1 basic question now with respect to Boston, because, again, by  
2 Friday, we've heard a lot about it. But can you just give us  
3 sort of a succinct view of your perspective about the Boston  
4 competitive landscape and American's position in it?

5 **A.** Certainly. And I'll do it in that order.

6 Look, in Boston the critical path is not slots;  
7 it's gates. And in Boston it's uniquely impacted because  
8 when you think about the airport, you can't simply build more  
9 gates. That makes it a really unique thing.

10 So it's a really big market. Its gate constraints  
11 effectively act as form of slot constrain. The only  
12 difference is there's a mechanism where if you're not -- a  
13 redistribution mechanism if you don't use it enough.

14 Which brings me to our perspective on this. What  
15 you see and what you saw on all of those documents and my  
16 inquiries about Boston or my, you know, colorful language  
17 about describing it, is that I've seen this movie before in  
18 New York. The way New York went about was in the post-9/11  
19 era, American Airlines didn't grow in New York at the rates  
20 competitors did, and it got left behind. And it got left  
21 behind to a point where it was condemned to its position, to  
22 a weak position, because it didn't keep up with the growth  
23 that was there.

24 And in Boston, I saw the same thing happening.  
25 Like, we were losing gates. Delta was getting the gates.

1 And Delta and JetBlue were continuing to grow there, while we  
2 were continuing to lose gates. So at a very minimum, it was  
3 defensive. We have to go -- at the time, we were thinking --  
4 and we have to go and be -- hold on to what we've got. We  
5 need to figure out how we can get ahead.

6 But, you know, none of my responses was I thrilled  
7 with the idea of whatever it was, 120 or 140 flights in  
8 Boston, because, really, all that was going to start to get  
9 us to was the same marginal spot we were in in LaGuardia;  
10 that what we really needed to think about is, okay, much like  
11 the WCIA, how do we approach this in a way where we have a  
12 real relevance, a broad and deep network for customers both  
13 in New York and Boston? And that's how we go and compete.

14 **Q.** So there's been some testimony about Delta in Boston and  
15 having declared it first a focus city and then a hub. How  
16 did that affect your perspective on Boston?

17 **A.** For me, it was seeing the past repeat itself. That's --  
18 that is exactly what happened in New York. In 2005 I  
19 remember them doing that. And they grew -- they added a ton  
20 of markets, and American didn't keep pace. We added Atlanta  
21 and Minneapolis to LaGuardia, and it wasn't enough. And the  
22 more Delta was calling it a hub and all of those things, it  
23 was putting pressure on us.

24 But what I also noticed is it puts pressure on  
25 JetBlue. Because what Delta was also doing, much like what

1 they did in Seattle with Alaska, is they were flying  
2 international. So for that frequent traveler, they are  
3 actually becoming more relevant with them. They are  
4 consciously going and flying the biggest markets that were  
5 there. So if you are a frequent traveler in Boston, they  
6 were getting to a place where it's better to be on Delta, in  
7 many cases, than to be on JetBlue.

8 **Q.** Thank you, sir.

9 So we've heard some testimony that talks about the  
10 NEA started serving the January and February 2020 time frame,  
11 right?

12 **A.** Correct.

13 **Q.** And as we can all remember, it was approximately  
14 March 2020 that the COVID-19 pandemic really started hitting  
15 hard, right?

16 **A.** That's right.

17 **Q.** At a high level, can you describe how the confluence of  
18 those two events, the discussions about the NEA and then the  
19 spread of COVID-19, affected your thinking about the network  
20 strategy and whether you wanted to do a deal with JetBlue?

21 **A.** Sure. Well, we were already, as you mentioned, talking  
22 about the NEA, and both sides were interested in it.  
23 COVID-19 probably accelerated it a lot. Because I think  
24 what -- maybe what everybody in the industry recognized, but  
25 certainly what we recognized at American is, you know, when



1 you wake up and suddenly you've lost 90 percent of your  
2 revenue, but you have 100 percent of your expenses, you've  
3 got to think differently, like, that day.

4 **Q.** Is that what happened?

5 **A.** Yeah. That's -- in COVID, we lost 90 percent of our  
6 passenger revenue. We kept all of our expenses, and what we  
7 needed to be able to do was -- you know, things like the NEA  
8 took on a different kind of interest for us. We wanted to  
9 make sure that we could still -- like, we were still  
10 interested in how do we go and create a broad and deep  
11 customer network, but it wasn't just going to be doing it the  
12 way we already did it okay.

13 **Q.** Okay, sir. Let's take a look at what's been previously  
14 marked as Defendants' Exhibit 7. It's in evidence. It's  
15 also redacted for confidentiality. And this is a network  
16 update with a date of 24 March 2020. Do you see that?

17 **A.** Yes.

18 **Q.** And so something that you put together?

19 **A.** Yes.

20 **Q.** And what is the -- you know, given the timing there,  
21 what's the purpose of this particular network update?

22 **A.** It's, quite frankly, to process where we were. I mean,  
23 the 24th of March was a pretty bleak time, maybe for the  
24 world all over, but uniquely bleak when you work at a  
25 passenger airline. And so we were trying to think about how

1 do we go and run the network to, frankly, keep the company  
2 alive.

3 **Q.** So turn to the fifth page, if you could. There's a --  
4 there's a slide here that's called "The New American." And  
5 it has various elements in the table. But the one that I  
6 want to focus on is the second row that begins with  
7 "leverage." Right? Could you just read that aloud and  
8 explain to the Court what you were thinking about the value  
9 of synthetic hubs in this particular environment?

10 **A.** Yes. Leverage partnerships to create synthetic hubs,"  
11 what we were thinking about is for where we were, we were  
12 going to probably have to shrink. Like, we couldn't have  
13 100 percent of our expense base if revenues were going to be  
14 smaller and smaller for a long period of time. So it really  
15 made us start thinking, like, how can we use markets -- use  
16 partners in markets to help provide the same thing with --  
17 frankly with less of the historical approach that we would  
18 have otherwise had, you know?

19 So what it led to was exactly what it said in the  
20 key actions, right? You know, it made us want to think about  
21 we've got to go really execute in Alaska and then in the case  
22 of JetBlue, there's a partnership that we're really going to  
23 need to think about here.

24 **Q.** So how did developing a partnership with JetBlue play  
25 into that strategy?

1     **A.** Well, because we knew that, absent that, I mean, New York  
2     was suddenly an unsustainable place for us. Boston, too.  
3     You know, if we were -- we knew it was going to be a big air  
4     travel market, but we couldn't be a marginal player in  
5     places. Like, we have to have real consumer relevance  
6     wherever we operate.

7     **Q.** Thank you, sir.

8                 So -- so how did you go about evaluating the  
9     opportunity of a partnership with JetBlue?

10    **A.** We con instructed a clean team.

11    **Q.** Can you explain what that means?

12    **A.** Yeah. Look, the challenge in AA/JetBlue is the --  
13     conceptually, both of us are smaller than Delta and United  
14     because of the nature of slots and real estate and things  
15     like that. You have to figure out how you actually put the  
16     schedules of these airlines together.

17                 So we had the idea that the only way a partnership  
18     could really work is if there was some form of organizing our  
19     capacity so that we can, you know, create schedule bounds,  
20     depth, so we can create international connectivity and things  
21     like that.

22                 So the idea was create a clean team, outside the  
23     scope of typical network planning, that could go and build a  
24     New York. Let's see if something can work and if something  
25     can work, okay, we can progress it, and if it doesn't, then

1 that's an answer, too.

2 **Q.** When you say build it, you mean create a schedule?

3 **A.** Create a schedule.

4 **Q.** Okay. Let's pull up Plaintiff's Exhibit 278, which is  
5 entitled "Project Plan." And are you familiar with that  
6 document?

7 **A.** Yes.

8 **Q.** Let's turn to slide 6. And the title is "our plan is to  
9 understand market dynamics and to define two to three  
10 scenarios with the smallest possible team while setting up B6  
11 clean room." What does that mean?

12 **A.** What we wanted to do is be very definitive about putting  
13 together a schedule, identify a couple of ways it could  
14 credibly work, and do it in a way where the people involved  
15 are not otherwise touching the day-to-day ops of the  
16 business.

17 **Q.** And it is the third row -- the row's numbered 3, develop  
18 potential scenarios. That's describing different potential  
19 implementations, is it?

20 **A.** Correct.

21 **Q.** Okay. And then -- and ten there's -- what's under 4,  
22 "evaluate scenarios"?

23 **A.** It's evaluating the outputs of those three scenarios  
24 above in a couple of different ways. This market share to  
25 QSI gap closure is the idea that -- like, we have a lot of

1 modelling where we can kind of predict based on how network  
2 relevance changes, which is something we call "QSI," a  
3 quality and service index, what it does to market share.

4 And what we find is that the greater your network  
5 relevance grows, it's almost like an S curve effect of market  
6 share. You're able to collect more of it. This is exactly  
7 the example I was making of if we only fly JFK-LA and they  
8 fly a lot more, we get less market share. So the first thing  
9 is, if we do this -- any of these scenarios, do we actually  
10 improve on that metric?

11 The second is, okay. As we do it, are we  
12 generating more revenue per equivalent seat kilometer?  
13 Which, for all intents and purposes, is the same thing as an  
14 available seat mile.

15 And then last but not least, this raven model runs  
16 is effectively our P&L forecaster. It -- once you put a  
17 schedule together, it can go and say are you generating more  
18 revenue with it than -- in absolute than what came forth.

19 **Q.** Raven is a forecasting tool?

20 **A.** It is.

21 **Q.** And it's proprietary to American Airlines?

22 **A.** It is.

23 **Q.** Okay. So let's put up Plaintiff's Exhibit 279.

24 THE COURT: These are all people who are on this  
25 team who are American Airlines employees?

1 THE WITNESS: Yes. Or --

2 THE COURT: Or external consultants.

3 THE WITNESS: No. They're all American Airlines  
4 employees, but they're outside of the day-to-day workings of  
5 scheduling.

6 THE COURT: No JetBlue people yet?

7 THE WITNESS: Not yet. Not named on that sheet.

8 BY MR. WALL:

9 Q. There is a JetBlue component to the clean team, though,  
10 right?

11 A. Correct, but just the ones named on that sheet were all  
12 of our AA employees.

13 Q. Right. Okay.

14 So now what we have here is Plaintiffs'  
15 Exhibit 279. Do you recognize that?

16 A. Yes.

17 Q. Okay. And the -- this is a draft of a document. Was  
18 this a draft for you?

19 A. I think so. If it was an overview and status update, it  
20 probably was, but my guess is it was probably used --  
21 probably most prominently with me. Maybe one or two others,  
22 too.

23 Q. Okay. So let's look at slide 2 and why don't you just  
24 take us through slide 2 and what's being shown here.

25 A. Yes. This is -- this is effectively the project charter

1 of what we called Project Garland, which was what later  
2 turned into the NEA. How do we go -- much like we describe  
3 in that Alaska e-mail, how do we go and create a real  
4 customer proposition that can go and compete, one that drives  
5 connectivity that makes a bigger thing and then it charts  
6 the approach of the clean team and defines what their  
7 deliverable is.

8 **Q.** Okay. Thank you, sir.

9 Under the "Goals," the first thing that is  
10 mentioned there is, "Addresses AA/B6 incomplete customer  
11 proposition relative to DL/UA in NYC." What's does that  
12 mean?

13 **A.** This is exactly the market relevance point that I have  
14 been speaking to; that what we want to be able to do is, when  
15 you put it together, be able to cover the largest markets  
16 with a competitive schedule pattern, similar number of  
17 frequencies, and be able to potentially even open new markets  
18 that play to the strengths of these two respective carriers.

19 **Q.** Okay. Now, if we go forward later in this deck -- let's  
20 pull up slide 9. Are you familiar with this particular  
21 slide?

22 **A.** Very much so.

23 **Q.** Why don't you describe what's going on in this slide and  
24 what significance it had to you when it was presented to you.

25 **A.** Well, look, I jokingly called it the eureka slide at the

1 time. I'll take it apart here.

2 The -- what this shows is what the -- an abstract.  
3 It shows the statistics of what a combined and optimized AA  
4 plus JetBlue looks like relative to its competitors.

5 Now, you see -- I'll read it kind of right to left  
6 in New York City. So there's AA. That's basically us in the  
7 baseline for this. JetBlue, the baseline in this. AA plus  
8 JetBlue is if you just did, effectively, codesharing, you put  
9 it all together. And then AA plus JetBlue optimized is the  
10 output of the clean team.

11 Now, on the surface of it, it may even kind of look  
12 similar at first, but in AA/JetBlue, you add 13 more nonstop  
13 markets. You have more daily seats. You have better  
14 coverage. But what really gets interesting in this top thing  
15 is that you have materially more long-haul international  
16 markets which is just -- and again, being able to do  
17 something like that is huge.

18 Then where it gets really interesting -- and this  
19 was the theory we had, that these -- this team proved out, is  
20 this bottom chart on the left. It says, "New patterns  
21 provide optimal customer offering." Now, before, this is the  
22 Austin schedule out of New York. And so here what you see is  
23 exactly what -- kind of what the judge was asking about  
24 before.

25 So United and Delta almost have, like, this hourly



1 pattern. If you're -- if you're a traveler that travels a  
2 lot and travels a lot there, you're flying one of those two  
3 guys. Note that JetBlue and American flights are stacked up  
4 on top of one another. That evening trip is the peak time  
5 trip. That JetBlue trip in the morning is there to help go  
6 make the schedule rotation go. But you see from that, we're  
7 just a spill carrier in this market.

8 Now when we're able to go and optimize the slot  
9 portfolio together, look at that. I still like looking at  
10 this thing. But we now have a competitive schedule there.  
11 We didn't even have that before.

12 And then you go look at the right. And, I mean,  
13 things like that Amsterdam and Brussels, and, like, Geneva,  
14 Tel-Aviv, Johannesburg, American Airlines -- it never dared  
15 to even dream about market like Johannesburg or Tel-Aviv out  
16 of New York before because they were so heavily New York  
17 originating.

18 So I jokingly call it the eureka slide, but it  
19 is -- this thing together now creates something which is  
20 competitive with Delta and United. Like this is an  
21 incredible New York to go and fly on.

22 And as I recall, too, in the slides leading up to  
23 it, it shows that when you create that kind of value, I mean,  
24 it was a really compelling financial thing for us, too.

25 **Q.** Okay. After receiving this, did you make a

1 recommendation to management about whether it should go  
2 forward with the NEA?

3 **A.** Yes.

4 **Q.** And what was that recommendation?

5 **A.** Do it.

6 **Q.** And, now, the suggestion has been made by the plaintiffs  
7 in this case that you could have accomplished these kinds of  
8 benefits with just a regular codesharing relationship. Is  
9 that true?

10 **A.** By no means. That's what the gray is. In fact, I mean,  
11 the gray is the Austin-before thing. It doesn't really go  
12 and add very much value to anybody by doing that.

13 In fact, we valued -- the difference between code  
14 and the reoptimize thing was -- I mean, it was an order of  
15 magnitude difference.

16 **Q.** Let's go back to slide 6 very briefly. So you had  
17 considered the codesharing option as part of this process?

18 **A.** Yes.

19 **Q.** And is this the slide that's referencing that?

20 **A.** Correct.

21 **Q.** And what was your conclusion?

22 **A.** Though interesting, it doesn't really produce a ton of  
23 value. And more than anything, it's just -- it doesn't do  
24 anything if you're a customer. Like, look at -- look at, you  
25 know, Austin. Look at Raleigh. It's -- it's still not at a

1 place where you'd actually go and fly. If you haven't -- the  
2 charter of this thing was, just like the West Coast alliance,  
3 was make something which is competitive with Delta and  
4 United. A customer should -- one of those high, like,  
5 frequently flying customers should want to fly on us. It  
6 doesn't address that.

7 **Q.** Okay. Let's move on to negotiating the NEA. You were  
8 heavily involved in those negotiations?

9 **A.** Yes.

10 **Q.** You signed the NEA agreements for American Airlines?

11 **A.** I did, yes.

12 **Q.** Okay. Let's talk about these, these agreements. I'm  
13 going to put up here first what is Plaintiffs' Exhibit 001A,  
14 which is a redacted version of the NEA agreement.

15 Okay. So the -- the -- the NEA agreement is sort  
16 of the umbrella agreement that collects all of the different  
17 components of the other agreement, right?

18 **A.** Yes.

19 **Q.** Okay. So let's just talk about a couple of the  
20 particulars of this one. Let's look at page 3 and Section 3,  
21 "Operation of the NEA," and in particular, Section 3.1,  
22 "Network Growth and Consultation." Okay?

23 **A.** Yes.

24 **Q.** Okay. We'll put that up.

25 MR. WALL: I think if you can -- if you have a way

1 of capturing the next page, that would be helpful because it  
2 spills over.

3 BY MR. WALL:

4 **Q.** While he's doing that, maybe you can just read  
5 Section 3.1.1 aloud for us?

6 **A.** "The parties agree to use commercially reasonable efforts  
7 to coordinate the NEA services, particularly with regard to  
8 codeshared flights, in order to minimize connecting passenger  
9 waiting time and to maximize passenger convenience and  
10 service, subject to the parties' prospective operational  
11 constraints and commercial considerations."

12 **Q.** That's fine for now.

13 So can you explain to the Court what you understand  
14 that -- to commit the parties to do with -- with respect to  
15 setting schedules?

16 **A.** Make the best airline network for customers and get them  
17 off of Delta.

18 **Q.** Are you -- are there other elements of capacity planning  
19 at airlines beyond just setting schedules in the way that  
20 it's described here?

21 **A.** Oh, sure.

22 **Q.** Do you coordinate fleet plans under the NEA?

23 **A.** We do not.

24 **Q.** Do you coordinate what your overall industry-wide  
25 capacity is over --

1       **A.** Absolutely not.

2               MS. SWEENEY: Objection. Leading.

3               THE COURT: Sustained as to the form.

4       BY MR. WALL:

5       **Q.** Okay. Let's just go on further in Section 3.1.1, it  
6       says, "Notwithstanding this Article 3 or Article 4, each  
7       party will continue to make independent decisions regarding  
8       pricing, capacity, and network management for its scheduled  
9       passenger services."

10              What do you understand that to mean?

11       **A.** That the parties are free to go and price as they see fit  
12       to determine their maintenance routings, go, you know, fly a  
13       route to Timbuktu if they so choose to do it. They're --  
14       what we do is we just optimize our planning and scheduling in  
15       New York for the benefit of those customers --

16       **Q.** And when you --

17       **A.** -- in Boston.

18       **Q.** And when you get recommendations from the joint planning  
19       teams that are envisioned here, is American Airlines bound to  
20       accept those --

21       **A.** No.

22       **Q.** -- recommendations?

23       **A.** We are not.

24       **Q.** Is it any different than whether you are bound to accept  
25       the network planning recommendations of your own internal

1 planning teams?

2 **A.** No, it is not. And those recommendations aren't always  
3 accepted.

4 **Q.** Let's just put up -- and I'll ask to direct your  
5 attention to the -- page 1, recital five of the NEA  
6 agreement, which reads, "Both parties acknowledge and agree  
7 that each will retain full control over all aspects of their  
8 respective businesses, including setting pricing for their  
9 services and making decisions regarding their capacity and  
10 their route networks."

11 Do you see that?

12 **A.** I do.

13 **Q.** Why is that there?

14 **A.** To make it very clear to everybody that we are still two  
15 independent airlines. We're coming together just to serve a  
16 very particular purpose in the NEA markets.

17 **Q.** Let's put up Sections 3.3 and 3.4 that are on page --  
18 pages 4 and 5 of the NEA agreement.

19 So Section 3.3 is entitled "Co-Location Facilities  
20 and Other Operational Efficiencies." And it says, "The  
21 parties will consider opportunities to better utilize assets  
22 for the NEA at the NEA Airports and other facilities to  
23 obtain operational efficiencies or other benefits of the NEA  
24 and for passengers using services including in the NEA,  
25 including, perhaps, having co-located facilities at agreed

1 airports."

2 There's a fair amount of airport jargon in that.

3 Can you explain what your understanding of that is?

4 **A.** Yeah. It's simply that, in all of these airports, there  
5 could be a lot of benefits to both of us to use gates more,  
6 to make it more convenient for customers to be able to  
7 connect from one end of Boston to the other.

8 This was what -- this was the sentiment that led to  
9 things like having a bus between their T5 in Kennedy and our  
10 T8, which is behind security and is the fastest way to  
11 connect in New York. Similarly in Boston, we made --

12 THE COURT: As compared to any possible connection  
13 in New York?

14 THE WITNESS: At least compared to Delta. It's --  
15 the fastest connection is actually American Airlines T8 to  
16 T8. Not to quibble.

17 BY MR. WALL:

18 **Q.** Well, that's come a couple of times, so why don't we just  
19 pause and you can tell the story of the bus. What bus are  
20 you talking about?

21 **A.** So the -- one of the major challenges in JFK is, though  
22 it's called one airport, in some ways, it's almost like four  
23 or five different ones that are -- that are based around an  
24 airfield. And for us, we own the T8 facility. JetBlue is in  
25 T5. Delta is in varying T2 to T4. The challenge with T5 and

1 T8 is they're not connected. They're separated. There's  
2 open space between the two of them.

3 So the -- prior to this bus, the only way to  
4 actually connect from T5 to T8 would be to leave security and  
5 go through it. So what we did is we actually made a bus that  
6 goes back and forth from these two terminals and, at a peak  
7 time, could run every 15 minutes or so.

8 And that is -- that facilitates connections so  
9 that, if you arrive on a JetBlue flight, you can take the bus  
10 over and connect to American Airlines without having to break  
11 security. And that's a faster thing than actually if you  
12 have to do the same thing as a T2 domestic arrival to a T4  
13 international arrival, which is what Delta did.

14 And so we -- something that maybe I'm more proud of  
15 than most. We spent lot of time timing all that stuff to  
16 make sure that it's actually faster.

17 MR. WALL: Your Honor, you'll actually see a movie  
18 about the bus.

19 THE WITNESS: I'm proud of this bus.

20 MR. WALL: Let's go on to the next section --

21 THE COURT: TSA on the bus?

22 THE WITNESS: I'm sorry.

23 THE COURT: Is TSA on the bus?

24 THE WITNESS: TSA?

25 THE COURT: Yeah.



1 THE WITNESS: No, because you're clearing in the  
2 one or the other. So you can clear --

3 THE COURT: In between it's just an American or  
4 JetBlue bus driver and --

5 THE WITNESS: Oh, yeah. Exactly. Yeah. That's  
6 right.

7 BY MR. WALL:

8 **Q.** Okay. So let's do Section 3.4, please. Put that up  
9 there. And this is slot usage and maintenance, about which  
10 we've heard a lot.

11 So can you just describe for us very briefly how  
12 this part of the --

13 THE COURT: Just so you all know, there's going to  
14 be an announcement in a minute, because the Zoom went off and  
15 whenever we reconnect to the Zoom, there's like an  
16 announcement that comes out through the system. So don't be  
17 disturbed by that. You can keep going. Go ahead.

18 MR. WALL: Okay. Hi, you all.

19 BY MR. WALL:

20 **Q.** So okay. Slot usage and maintenance, we've heard a lot  
21 about the slot terms of this. Can you just describe at a  
22 high level how the NEA results in slot sharing?

23 **A.** Yeah. The slots are effectively pooled. The idea is  
24 build a schedule so that we have the right kind of schedule  
25 patterns that are there, and so effectively, we just transfer

1 slots back and forth for the purposes of being used in the  
2 NEA, but each party still owns its slots.

3 **Q.** And there is -- there's a reference in Section 3.4.1 to  
4 the terms and conditions that are set forth in Appendix C.  
5 That's just a more formalized slot lease agreement?

6 **A.** Correct.

7 **Q.** Now, does -- does JetBlue pay any cash remuneration for  
8 the slots that it uses under the NEA?

9 **A.** None.

10 **Q.** How then are you compensated?

11 **A.** We're not compensated.

12 THE COURT: So when they lease a slot, when they  
13 get a slot from you, there's a lease agreement, but no  
14 payment?

15 THE WITNESS: Correct, there's no payment, because  
16 the idea is that we -- we don't want to create the  
17 inefficiency that leasing slots is going to go and compromise  
18 that schedule to Austin, right? The idea is to make the  
19 schedule to Austin that way.

20 And the way we all get paid is that we generate  
21 more revenue into the pool, and we have mechanisms to  
22 distribute that. That's the value, not a slot deal.

23 BY MR. WALL:

24 **Q.** Right. In that regard, let's pick up, with some  
25 trepidation, the subject of revenue sharing. That is spelled

1 out in the separate agreement that's called the MGIA, right?

2 **A.** True.

3 **Q.** That's Plaintiffs' Exhibit 1B, and we'll put up the  
4 redacted version of that one.

5 Now, this is a long and detailed agreement, some  
6 30 pages long. Can you just tell the Court how you came up  
7 with the concepts and how it ultimately turned into what we  
8 have here in the MGIA?

9 **A.** Yeah, sure. They're based out of things that we do in  
10 international joint ventures. They're designed -- great  
11 common incentivizes us for us to be able to grow and make the  
12 right capacity choices.

13 **Q.** Okay. So was it a particular joint business or just a  
14 composite? What's the providence of this?

15 **A.** Look, all of our joint businesses have some form of a  
16 revenue share that are in them. And we find two things,  
17 right? The capacity coordination is necessary but not  
18 sufficient to create the values you saw on that JFK Austin.  
19 The next thing is people have to have a financial incentive  
20 to do it because, again, that -- in that case, I forget what  
21 it was -- the 7 p.m. time slot is the peak time slot.

22 Well, in order to create the pattern we're  
23 competitive they're throughout the day, someone's got to fly  
24 out at 2:00. Well, if you don't have an incentive to go fly  
25 at 2:00, you're actually deoptimizing your own metal to do

1 it.

2 So the idea behind revenue share is it relaxes  
3 that, right? Now, everybody flies the best schedule. AA and  
4 JetBlue work together to fly the best schedule there. And  
5 what the revenue-sharing agreement does is it effectively  
6 means that we pool all the revenue, and then we redistribute  
7 in an equitable way.

8 **Q.** Now, let's talk a little bit about the specifics of that.  
9 When -- when you talk about sharing the revenue, the MGIA  
10 makes a distinction between baselines and incremental  
11 measures of revenue and growth, right?

12 **A.** Correct.

13 **Q.** Can you explain to the Court kind of just generally how  
14 that works and why it works that way?

15 **A.** Sure. The concept behind it is, prior to us doing any  
16 kind of a deal, everybody generated some kind of unitized  
17 revenue performance. And then once we go and do this deal,  
18 we should generate something more, which we -- which we  
19 split.

20 So that base thing is called our "base position."  
21 Then after that, whatever other revenues either carrier  
22 generates is put into a pool. Everything that's over a year  
23 incremental position gets apportioned based on the amount of  
24 capacity you fly.

25 **Q.** So once you've established what that incremental revenue

1 is, how do the carriers decide which -- who gets which part  
2 of that?

3 **A.** Well, it's not like a negotiation or anything. It's a  
4 set of formulas that are laid out here based on the  
5 percentage of the capacity that you're flying.

6 **Q.** So how does the relative capacity of the two carriers  
7 affect the MGIA calculations?

8 **A.** Well, the more -- it incentivizes both carriers to  
9 effectively grow.

10 **Q.** How so?

11 **A.** Because what you want is you want to generate more  
12 revenue. So effectively what this does is it de-risks you  
13 doing what we call, like, "project flying," or taking  
14 experiments.

15 When we do -- if we were to just go start a route  
16 like JFK-Tel-Aviv on our own, you're not guaranteed anything.  
17 When we go to do this now we know that we'll be able to hit  
18 our base position of revenue. And then everything else is a  
19 function of what we can do together.

20 So JetBlue wants to go and support Tel-Aviv because  
21 they want the incremental pool to get big. We want to go  
22 support them when they're flying to Myrtle Beach or whatever  
23 the case might be. And so we have every incentive to go and  
24 both add capacity and grow -- like, be able to grow the  
25 revenue that we share from it.

1 Q. Now, you mentioned that American Airlines sees a similar  
2 revenue sharing in other alliances. What has --

3 THE COURT: How do you know you're going to hit  
4 your base at Tel-Aviv if you do it this way, but you didn't  
5 know that if you did it alone?

6 THE WITNESS: That's an excellent question. So  
7 none of the -- everything --

8 THE COURT: Nobody ever tells me I ask a bad  
9 question. I'm not trying to believe the unity and the  
10 quality --

11 THE WITNESS: Nobody ever tells me I asked a bad  
12 question too, but I know I do, though.

13 But, yeah, so the -- it's not done at the route  
14 level, right? So when we start Tel-Aviv, we know that all  
15 the capacity that we go, if we -- I'll make up a 100 units of  
16 capacity. We know that each of those units, whether one unit  
17 goes to Tel-Aviv or one goes to Austin, will come back to us  
18 at our base position. So --

19 THE COURT: In the contract?

20 THE WITNESS: Correct.

21 THE COURT: I got it.

22 THE WITNESS: And so you want to generate something  
23 above the base position. That's why, through this thing,  
24 like, there's a bunch of routes that historically we wouldn't  
25 have gone into, Boston-Cincinnati and places like that, all

1 because of that construct.

2 BY MR. WALL:

3 **Q.** You mentioned that American uses similar revenue sharing  
4 in other alliances, including the immunized international  
5 ones. What has been your experience with the effects of  
6 these kinds of revenue sharing terms on growth?

7 **A.** They've been significant for us. Look, in -- since  
8 entering into our transatlantic joint venture, we've grown at  
9 a greater rate than we grew before it. Were it not for  
10 COVID, the same would be true in your transpacific joint  
11 ventures, that whenever we have been in one of these  
12 structures, it facilitates growth for ourselves and  
13 partnerships.

14 And, frankly, it facilitates a growth in just  
15 product innovation. Prior to the Atlantic joint venture, we  
16 didn't operate flat-bed seats in transatlantic. We didn't  
17 have a premium economy cabin. Within, like, a year of being  
18 in the transatlantic venture we were outfitting all of our  
19 planes to have flat-bed seats and premium economy, and now  
20 it's become a standard across the whole industry. We learned  
21 that from British Airways.

22 **Q.** Okay. One last agreement that I want to talk about here.  
23 This is the frequent flyer agreement.

24 THE COURT: I'm sorry; I just want to circle back  
25 to the base for a minute just to make sure I understand this.

1           So whether you take that 100 -- call it one plane  
2     with 180 seats. It's -- you had it before you were flying  
3     some route. It's in your base. You're going to get credit  
4     for that whether you send that to Tel-Aviv or whether you  
5     send it to Raleigh-Durham. But then how are you expanding --  
6     how does something show up as expanding capacity in the MGIA?

7           THE WITNESS: So what you're going to be doing  
8     is -- like, a lot of what we end up doing in the MGIA in our  
9     actually schedules is those 50-seat regional jets in JFK  
10    never turn into 75-seat jets. They turn into 300-seat  
11    international jets that are now flying to Tel-Aviv and Delhi  
12    and Doha and places like that. So the capacity --

13          THE COURT: So the difference between those two is  
14    an increase in capacity out of the NEA?

15          THE WITNESS: Correct.

16          THE COURT: I see. So it's what you're flying out  
17    of the NEA. So there's an incentive for you to swap in  
18    bigger planes for -- just looking at the whole universe of  
19    how many seats, if it's seats, you're flying out of the NEA,  
20    that you have an incentive to swap in bigger planes?

21          THE WITNESS: Correct. And we've upgauged the  
22    entirety of New York and Boston for that reason.

23          THE COURT: Okay. All right. And then that's the  
24    incremental?

25          THE WITNESS: Exactly.



1 THE COURT: Okay.

2 BY MR. WALL:

3 Q. Okay. The last thing I wanted to talk about briefly here  
4 is the frequent flyer agreement. That's at -- that's also a  
5 separate contract as part of the NEA, right?

6 A. Correct.

7 Q. Okay.

8 A. Sorry.

9 Q. And just at a very high level since it's getting late in  
10 the day, can you just summarize the frequent flyer agreement  
11 and its role in the overall NEA package?

12 A. Sure. This is, in some ways, the sort of final piece of  
13 making a network that's attractive to that frequently flying  
14 person. In order to truly get them off of Delta and United,  
15 they have to be able to earn miles.

16 In whatever program they're in -- ours is  
17 advantage, JetBlue's is TrueBlue -- they should be able to  
18 earn miles. They should be able to redeem on the entirety of  
19 these networks, and they should be able to have their flights  
20 count towards achieving status.

21 So what the frequent flyer program or the frequent  
22 flyer deal does is just set the terms for how those are --  
23 that works.

24 Q. Thank you, sir.

25 THE COURT: It's a currency transaction?

1 THE WITNESS: Correct. That's exactly what it is.  
2 Yeah.

3 MR. WALL: Thank you, sir.

4 BY MR. WALL:

5 Q. Okay. So the parties reached agreement on the terms of  
6 the NEA in July 2000. Did it -- at some point thereafter,  
7 did you make a report to the board of directors on the NEA  
8 what you had done?

9 A. Yes.

10 Q. Let me show you what's already been admitted as  
11 Defendants' Exhibit 25, another one that's -- I think we saw  
12 earlier. And I believe the slides related to the NEA are  
13 slides 60 to 67. So if you could just quickly confirm that  
14 for me. Here, they're up on the screen.

15 A. There we go. Yep.

16 Q. So did you deliver these slides at the meeting?

17 A. We did.

18 Q. Okay.

19 A. I did.

20 Q. So let's go first to slide 61. Could you please explain  
21 what it is that you were explaining to the board about the  
22 case that led to the NEA?

23 A. Yeah. We're showing the -- effectively the largest  
24 originating markets in the US, both in revenue, passengers  
25 per day, and then also what percentage of all of contracted

1 corporate customer travel originates in all of those cities.

2 **Q.** Okay. Let's go to the next slide. And what's going on  
3 with this one that begins "separately AA and B6"?

4 **A.** This started to illustrate how we compare -- in terms of  
5 competitive capacity versus Delta and United separately and  
6 then together.

7 **Q.** Okay. Let's go to the next one. And if you could  
8 explain what you told the board with this one.

9 **A.** This is to describe what we do. This is a description of  
10 the outputs of the clean team. So it's how we would  
11 effectively strategize through these different groupings that  
12 we have in these markets.

13 So, for example, like, one of the things that  
14 certainly has always been near and dear to my heart is that  
15 we have flatbeds in over transcontinental market. So that's  
16 New York and Boston to, as we call it, all of the cities  
17 where you can see water in the West Coast -- so Seattle,  
18 Portland, San Fran, LA, San Diego.

19 And to this day, we are the only -- the NEA is the  
20 only people that have flatbeds on all of those -- have a  
21 flatbed in every one of these markets.

22 Similarly, transatlantic, we get to go and fly a  
23 bunch of new flights. In LaGuardia, we can now start doing  
24 different things where, you know, for JetBlue they have  
25 different fleet types. They have a 100-seat airplane in

1 the --

2 THE COURT REPORTER: I'm sorry; say that again  
3 slower.

4 THE WITNESS: Sorry.

5 THE COURT: A 100-seat aircraft in the --

6 THE WITNESS: JetBlue has different fleet types  
7 than we do. For example, they have 100-seat airplanes, and  
8 that enables them to serve markets more economically than we  
9 can. We have bigger jets than they do, not just wide bodies,  
10 but 200-seat narrow bodies, so we could reoptimize that.

11 Of course, there's a huge upgauging component,  
12 which we've talked about a lot today.

13 And then, in Boston, one of the things we found  
14 after -- after the clean teams were working through it, is --  
15 I described this box earlier, these midcontinental markets  
16 where AA is really, really strong in. Here, we show  
17 St. Louis and Indianapolis. And we can go fly more of those.  
18 BY MR. WALL:

19 **Q.** Great. Let's go to the next slide, please. And then  
20 this is something -- this is familiar, looks like something  
21 we saw earlier, but what's happening with this chart?

22 **A.** This is -- this is the same thing. We're showing how  
23 we've improved the schedule patterns for everybody. I  
24 confess, maybe much like the bus, I couldn't probably spend  
25 enough time talking about something like this, because in the

1 world of airline network and schedule planning, I mean,  
2 frankly, I spent 18 years trying to figure out how to do this  
3 in New York, and the clean team did it. So we talked about  
4 how we did that.

5 MR. WALL: Next slide, please.

6 BY MR. WALL:

7 Q. And then that's familiar -- that's -- you presented those  
8 different metrics on nonstop markets, daily seats, et cetera,  
9 to the board as well?

10 A. Correct.

11 Q. And then, finally --

12 THE COURT: This is the presentation to the board  
13 as to why they should approve this?

14 THE WITNESS: Correct. That's exactly right.

15 BY MR. WALL:

16 Q. And the next one? There may not be a next one. And then  
17 what's going on with this?

18 A. This is us trying to explain to the board here -- here's  
19 what we think the change to our P&L would be when we do this.  
20 Now, very importantly in this P&L, what we do is -- this is  
21 called our "after ownership contributions.

22 " So this is -- it does not -- like, 376 and the  
23 base doesn't include the cost of owning all of the airplanes  
24 and the facilities that are there. But what's very important  
25 about this is this the difference between us making money in

1       these markets and us losing money in these markets.

2       **Q.**   Thank you.

3               MR. WALL:   Your Honor, I've still got enough  
4       material where I'm not going to finish today. Mr. Raja can't  
5       come back on Monday. We've already told the plaintiffs about  
6       that. So I think this would probably be a good time to  
7       break, and we're going to just have to report back to you on  
8       how we pick this up, probably Thursday or so of next week.

9               THE COURT:   All right with you?

10              MR. JONES:   Yes, Your Honor. We'll work with  
11      defendants to schedule the rest of Mr. Raja's time.

12              THE COURT:   Okay. That's fine. All right. I  
13      mean, I don't have -- as a general proposition, I don't have  
14      a problem with taking people out of order, so -- to  
15      accommodate people's schedules. And though I'm willing to  
16      stay for a lot longer, I'm perfectly happy to end the day.

17              MR. WALL:   Well, if you're willing to stay for a  
18      lot longer --

19              THE COURT:   I don't know how much longer you want  
20      to stay.

21              MR. WALL:   Well, I mean, if you're willing to stay,  
22      I would love to finish and get --

23              THE COURT:   How much longer do you have?

24              MR. WALL:   I have about 15 minutes, and then they  
25      have whatever they have.

1 THE COURT: How long do you --

2 MR. JONES: Your Honor, we think probably about  
3 30 minutes of redirect.

4 THE COURT: Why don't we take a two-minute recess,  
5 and I talk to the court staff, and then I'll come back out  
6 and I'll --

7 MR. WALL: Fantastic.

8 MR. SCHWED: Your Honor, just before we leave -- I  
9 assume we're definitely finishing with Mr. Raja.  
10 Mr. Laurence can catch a plane?

11 THE COURT: I'm sorry?

12 MR. SCHWED: The next witness is not going to get  
13 called now? I just -- he needs to catch a plan.

14 THE COURT: Yeah, no, we're not going on to --

15 MR. SCHWED: Okay.

16 (Brief recess taken.)

17 THE COURT: You can be seated.

18 So I think in the better course is to allow the  
19 witness to prove up the network. He can fly back here  
20 another time.

21 I think -- I mean, I'm -- you know, my general view  
22 is to keep on going; but I think that, in fairness to all of  
23 you and to the court reporter and to the staff -- and also,  
24 you know, this is an important case for you all of you, and I  
25 want to do the best that I can possibly do.

1           And so -- well, it's just -- it is -- gets harder  
2     to pay attention as the day wears on into, like, for  
3     another -- we were talking about at least another hour, and  
4     as a practical matter, it may be more. So I think it makes  
5     more sense -- that's my thinking about it -- it makes more  
6     sense to adjourn now and work out another time for him to  
7     come back.

8           I'm -- as a general proposition, that's fine with  
9     me that we don't finish him today. We can do somebody else  
10    Monday, what have you, and then he can come back another  
11    time.

12           MR. WALL: Understood, Your Honor. I think you're  
13    going to find that next week, you're not going to be able to  
14    tell whose case in chief you're in for much of it because of  
15    this. We have got a bunch of stuff to move around.

16           THE COURT: That's fine. You know, I see --  
17    there's overlapping for lots of witnesses. There's  
18    overlapping things relating to both of your cases. I get  
19    that, and that's fine.

20           And so a couple of things, just -- unless you have  
21    something else on any of that -- that I just wanted to --  
22    anything else for any of you?

23           So just a couple of quick things to think about.  
24    One is, in terms of giving you some more -- I talked about  
25    giving you a little more time than I issued in that schedule



1 that I gave you originally, in part, to account for the  
2 breaks and closing arguments. I'm going to do that. I  
3 haven't figured out exactly when, but I do know when it won't  
4 be. It won't be Friday, October 21st.

5 So that week, we have some time on Monday, and  
6 we'll have the time on Monday; but the rest of the week, I  
7 have no -- I won't have any time for you for sure. So in  
8 terms of your own planning, it won't be Tuesday, Wednesday,  
9 Thursday, Friday, and it will be the following week is when  
10 I'll give you some more time. And I'll try to look at that  
11 and try to fix it if we can't figure it out early next week  
12 so you know for our own planning purposes.

13 And we can do -- I owe you a couple minutes today  
14 probably. And you can add that in if you wish, and we'll --  
15 the time for the breaks or whatever, a little more time and  
16 also the closing arguments then.

17 The second -- to the extent you come up with,  
18 either of you -- like, today happened with the  
19 demonstrative -- and you get it in the meddle of night, my  
20 suggestion is -- you all have e-mail -- just e-mail it right  
21 away.

22 Maybe you're all -- maybe there is a time in the  
23 24-hour cycle where, on both teams, there's nobody working --  
24 I hope. But in any event, you can e-mail it when you get it  
25 or when it's at the point that it's, like, close enough to

1 share. And even if that's only 20 minutes before court, it's  
2 better than in courtroom, and two hours before is better than  
3 that. I understand those things come up, and so -- but  
4 that's the best practice.

5 I think those are the only -- the only things I  
6 have at the moment other than I wish you all a good weekend,  
7 and I'll see you Monday morning.

8 I guess -- I'm going to give you back -- since  
9 we're keeping one set for each witness, I don't need his set  
10 for now. You can give it back to me when he comes back.

11 Thank you.

12 (Court in recess at 4:48 p.m.)  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**C E R T I F I C A T I O N**

I certify that the foregoing is a correct transcript of the record of proceedings in the above-entitled matter to the best of my skill and ability.

/s/ Rachel M. Lopez

September 30, 2022

/s/ Robert W. Paschal

---

Rachel M. Lopez, CRR

---

Date

Robert W. Paschal, RMR, CRR

Official Court Reporters